



Western Australia.

ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXXV.

AN ACT to amend the Companies Act, 1893.

[Assented to, 23rd December, 1897.]

WHEREAS the Companies Act, 1893, contains, in Part VIII. thereof, certain provisions relating to Foreign Companies, and whereas it is expedient to amend and extend the same: Be it enacted by the Queen'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:—

Preamble.

1. IN this Act the following terms shall have the meanings hereinafter assigned to them, if not inconsistent with the context or subject matter:—

Interpretation.

“Principal Register” shall mean the register of members of any Foreign Company kept at the principal office of such Company outside the Colony:

“Local Register” shall mean the register established by this Act:

“Colonial Seal” shall mean the common seal of the Company in use in the Colony:

61° VICTORIÆ, No 35.

Companies Act—Amendment.

“ Colony ” means the Colony of Western Australia :

“ Foreign Company ” shall mean any joint stock company, or corporation duly incorporated for trading or other business purposes according to the law in force in the country in which it is incorporated, other than a company incorporated in Western Australia :

“ Representative ” means an executor or administrator, and includes the Curator of Intestate Estates in cases where the Court shall have authorised him to administer the estate of a deceased person. It also includes “ Devisee ” and “ Heir-at-law ” where a devisee or heir-at-law is liable as a contributory :

“ Principal Act ” shall mean the Companies Act, 1893 :

“ Court ” shall mean the Supreme Court or a Judge thereof :

“ Attorney ” shall include Agent, Director, Manager, and Secretary, or any person for the time being discharging any of such offices :

Local register to be kept by foreign companies.

2. UPON the application of a shareholder in any foreign company, and upon proof to the satisfaction of the Supreme Court or a Judge thereof that at least five per cent. of the shares actually issued in such company are held by shareholders resident in the Colony, the Court or Judge shall order and direct that a Register of Shareholders under this Act, to be called a Colonial Register, shall be opened and kept in the Colony within such time as shall to the Court or Judge seem expedient.

The attorney of any such company shall, within the time specified in such order, open and keep, or cause to be opened and kept, at the registered office of the said company in the Colony, a Colonial Register of all its members who may apply in writing to such attorney to be registered thereon. Every such register shall be kept in the manner provided by Part III. of the Companies Act, 1893, and the Court shall be entitled to exercise the same jurisdiction of rectifying the same as is by Section Thirty-six of the said Act, vested in such Court with respect to a register of a company incorporated in the Colony.

Every such foreign company refusing to register a shareholder in compliance with this section shall incur a penalty not exceeding Five pounds for every day during which such non-compliance continues; and every attorney of such company who, in the Colony, knowingly and wilfully authorises or permits such non-compliance shall incur the like penalty.

61° VICTORIÆ, No. 35.

Companies Act—Amendment.

3. NO notice of any trust, expressed, implied, or constructive, need be entered on the register of members, or be receivable by the company.

Notice of trust not to be entered in register.

4. ANY shareholder in a foreign company having a Colonial Register may apply, in the form in the First Schedule hereto, to be registered in such Colonial Register, and upon delivery of the same, together with the share certificate in respect of which he desires to be registered, to the attorney of the said company, at its registered office in the Colony, shall be entitled to receive from such attorney a deposit-note in the form of the Second Schedule hereto, and the manager, etc., shall with all due diligence, forward such share certificate to the principal registered office of such company, where the register of shares is kept; and if it shall there appear that no encumbrances or unpaid calls are registered against or due upon the said shares, such shares shall thereupon be transferred to the Colonial Register, and upon notification of such transfer the attorney shall, upon production of such deposit-note, issue to such applicant a certificate for a similar number of shares in the company, indorsed "Colonial Register," bearing the same progressive numbers, and such certificate shall be of the same force and effect as such superseded certificate.

Transfer of shares to Colonial Register.

5. A COLONIAL Register shall, as regards the parties entered therein, be deemed to be a part of the company's register of members, and shall be *prima facie* evidence of all particulars entered therein.

Colonial Register to be deemed part of Company's Register of Members.

6. THERE shall be kept at the office of every foreign company having a local register, a colonial seal and a certificate under the colonial seal of the company, specifying any share or shares, or stock held by any member thereof, shall be *prima facie* evidence of the title of the member to the share or shares, or stock therein specified.

Certificate to be *prima facie* evidence of title.

7. (1.) THE local register of members shall be kept at the registered office of the company in the Colony, and, except when closed as hereinafter mentioned, shall, during not less than two hours in each day upon which the registered office of the company shall be open for business, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of One shilling or such less sum as the company may prescribe for each inspection, and every such member or other person may demand a copy of such register, or any part thereof, or of any list or summary prepared under Section Thirty of the principal Act, on payment of Sixpence for every One hundred words required to be copied.

Inspection of register.

61° VICTORIÆ, No. 35.

Companies Act—Amendment.

Penalty for refusal
of inspection.

(2.) If such inspection or copy be refused, or if the company shall neglect to comply with the lawful demand for such inspection of copy, the company shall incur, for each refusal or neglect, a penalty not exceeding Two pounds, and a further penalty not exceeding Two pounds for every day during which such refusal or neglect continues, and every attorney of the company who knowingly and wilfully authorises or permits such refusal or neglect shall incur the like penalty. In addition to the above penalty a Judge may, by order, compel an immediate inspection of the local register, and make such further or other order as the nature of the case requires.

Register may be
closed.

8. ANY foreign company may, upon giving notice by advertisement in any newspaper published in Perth, or in the place nearest to the registered office of the company, close the local register of members for any time or times not exceeding in the whole thirty days in each year, provided that the register shall not be closed at any one period for more than seven consecutive days.

Validity of transfer
of shares of deceased
person.

9. ANY transfer of the shares or other interest registered in a colonial register of a deceased member of a foreign company, made by his representative, shall, notwithstanding such representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Notice of rectification
to be given to Registrar.

10. WHEN an order has been made rectifying the local register in the case of a company hereby required to send in a list of its members to the Registrar of Companies under the principal Act, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Register to be evi-
dence.

11. THE local register of members shall be *prima facie* evidence of all matters by this Act directed or authorised to be inserted therein.

Dividends, how pay-
able.

12. THE dividends in foreign companies accruing due from time to time, in respect of shares on any local register, shall be notified by the officer in charge of such local register, by letter or post card to the shareholders on such local register, and by advertisement in the newspaper published nearest to the place of such local register, and shall be payable at the registered office of the company in the Colony to the shareholders on such local register at a time not later than fourteen days from the date on which such dividends have been declared payable at the foreign office of the company.

61° VICTORIÆ, No. 35.

Companies Act—Amendment.

13. (1.) EVERY foreign company shall keep at its registered office in the Colony, a register of all mortgages, bills of sale, and other charges specifically affecting property of the company in the Colony, and shall enter in such register, in respect of each mortgage, bill of sale, or charge, a short description of the property mortgaged or charged, the amount of charge created and the rate of interest payable, and the names of the mortgagees or persons entitled to such charge.

Register of mortgages, bills of sale, etc., to be kept.

(2.) If any such property of a foreign company registered in the Colony shall be mortgaged or charged, or if any bill of sale shall be given without such entry as aforesaid being made, every attorney or other officer of such company who knowingly and wilfully authorises or permits the omission of such entry shall incur a penalty not exceeding Fifty pounds.

Penalty for default.

(3.) The register of mortgages, bills of sale, and charges required by this section, shall be open to inspection by any person at all reasonable times, and if such inspection be refused, any officer of the company refusing the same and every attorney of the company authorising, or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding Five pounds, and a further penalty not exceeding Two pounds for every day during which such refusal continues, and in addition to the above penalty a Judge may, by order, compel an immediate inspection of the register.

Register of mortgages, etc., to be open to inspection.

14. THIS Act shall be read and construed with the Companies Act, 1893, and shall be known as the Companies Act Amendment Act, 1897.

Short title and incorporation.

In the name and on behalf of the Queen I hereby assent to this Act.

GERARD SMITH, Governor.

61° VICTORIÆ, No. 35.

Companies Act—Amendment.

First Schedule.

Section 4.

THE COMPANIES ACT AMENDMENT ACT, 1897.

Application of Shareholder in Foreign Company to be placed upon the Colonial Register.

I, _____, of _____, being the person mentioned in the annexed Certificate, as the registered holder of _____ Shares, numbered _____ to _____ inclusive, in the _____, incorporated in _____, do hereby apply to be placed on the Colonial Register as proprietor of the said Shares.

Dated this _____ day of _____, 18 _____.

Witness :

Second Schedule.

Section 4.

THE COMPANIES ACT AMENDMENT ACT, 1897.

Certificate of Deposit of Shares lodged for transfer to the Colonial Register.

THIS is to certify that _____, of _____, did, on the _____ day of _____, 18 _____, deposit with me at the Registered Office, in the Colony of Western Australia, a Certificate of _____ Shares, numbered _____ to _____ inclusive, in the _____, for the purpose of having the same transferred to the Local Register under the above Act.

As witness my hand, at _____, this _____ day of _____, 18 _____.

For the Company,

A.B.,

(Attorney).

Note.—This Deposit-note must be returned to the Office before a Certificate of the Shares under the above Act can be issued; but it is not to be considered as a guarantee that the shares will be so transferred, and attention is directed to Section 4 of the above Act.