

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 25 of 1931.

AN ORDINANCE

Relating to Companies.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1931*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Companies Ordinance* Short title.
1931.
2. This Ordinance shall commence on a date to be fixed by the Commencement
Attorney-General by notice in the *Gazette*.
3. This Ordinance is divided in Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—Administration.
 - Part III.—Application and Amendment of Companies Acts.
4. In this Ordinance, unless the contrary intention appears— Definitions.
 - “ the Companies Act, 1899 ” means the Companies Act, 1899 of the State of New South Wales in its application to the Territory;
 - “ the Companies Acts ” means the Companies Act, 1899, the Companies Act Amendment Act, 1900, the Companies (Amendment) Act, 1906 and the Companies (Amendment) Act, 1907 of the State of New South Wales in their application to the Territory;
 - “ the Companies (Registration of Securities) Act, 1918 ” means the Companies (Registration of Securities) Act, 1918 of the State of New South Wales, as adopted by this Ordinance;
 - “ the Registrar ” means the Registrar of Companies appointed under this Ordinance and includes any Deputy Registrar so appointed;

807/29.—PRICE, 5D.

“ the Regulations ” means the regulations made under this Ordinance;

“ the State ” means the State of New South Wales.

PART II.—ADMINISTRATION.

Registrar and
Deputy
Registrars.

5.—(1.) For the purposes of this Ordinance and the administration of the Companies Acts and the Companies (Registration of Securities) Act, 1918, there shall be—

- (a) a Registrar of Companies; and
- (b) such Deputy Registrars of Companies and other officers as are necessary for carrying out this Ordinance.

(2.) The Attorney-General may appoint any person to be a Registrar of Companies or a Deputy Registrar of Companies and, during any temporary vacancy in the office of Registrar, the Attorney-General may appoint any person to be an Acting Registrar of Companies.

(3.) Any Acting Registrar so appointed shall have all the powers and perform all the duties of the Registrar.

Registrar's seal
of office.

6.—(1.) The Registrar shall have and use a seal of office, the design of which shall be notified by the Attorney-General in the *Gazette*.

(2.) Every instrument bearing the imprint of that seal and purporting to be signed or issued by the Registrar or by any Acting or Deputy Registrar shall be received in evidence, and shall, in the absence of proof to the contrary, be deemed to be signed or issued by or under the direction of the Registrar, Deputy Registrar or Acting Registrar.

Functions of
Acting
Registrar and
Deputy
Registrar.

7. Whenever by any law anything is appointed to be done by the Registrar, it may be lawfully done by any Acting Registrar or by any Deputy Registrar.

PART III.—APPLICATION AND AMENDMENT OF COMPANIES ACTS.

Application of
State Acts.

8. Notwithstanding anything contained in any other Ordinance, the provisions of the Companies Acts shall not, after the commencement of this Ordinance—

- (a) have effect in the Territory; or
- (b) continue to be administered by the Authorities of that State,

as if the Territory continued to form part of the State, but those provisions shall, subject to the following modifications and such other modifications as are prescribed, continue in force in the Territory:—

- (a) Any reference to the Governor or to the Governor-in-Council shall be read as a reference to the Governor-General;

- (b) Any reference to the Attorney-General or Colonial Secretary shall be read as a reference to the Attorney-General of the Commonwealth;
- (c) Any reference to a Company under Part I of the Companies Act, 1899 or to a company formed or registered under that Part or to a company registered under that Act or to a company under that Act shall be read as a reference to a company registered in the Territory;
- (d) Any reference to New South Wales or to the Colony of New South Wales shall be read as a reference to the Territory;
- (e) Any reference to the Court, the Supreme Court or to the Supreme Court in its common law jurisdiction or in its equitable jurisdiction shall be read as a reference to the High Court;
- (f) Any reference to the Judge, the Chief Judge or Judge in Equity shall be read as a reference to a Justice of the High Court;
- (g) Any reference to Judges shall be read as a reference to Justices of the High Court;
- (h) Any reference to the Master or the Master in Equity shall be read as a reference to the Principal Registrar or a District Registrar of the High Court;
- (i) Any reference to the Registrar-General, the Registrar, the Registrar of Joint Stock Companies or the Assistant Registrar shall be read as a reference to the Registrar appointed under this Ordinance; and
- (j) Any reference to the *Gazette* or the *Government Gazette* shall be read as a reference to the *Commonwealth of Australia Gazette*.

9.—(1.) The Companies (Registration of Securities) Act, 1918 of the State of New South Wales is hereby adopted as a law of the Territory so far as the same is applicable to the circumstances of the Territory and is not repugnant to or inconsistent with the provisions of any Act, Ordinance, law, regulation, rule, order or proclamation having the force of law in the Territory.

Adoption of
Companies
(Registration of
Securities) Act,
1918.

(2.) In the adoption of the Companies (Registration of Securities) Act, 1918 effected by the last preceding sub-section, the modifications specified in the last preceding section in respect of the Companies Acts shall apply together with such other modifications as are prescribed.

10. The Companies Act, 1899 of the State of New South Wales in its application to the Territory is amended—

Modifications
of the
Companies Act,
1899 in its
application to
the Territory.

- (a) by omitting from section one the words and figures
“ PART IV.—Reference to District Court—ss. 266-
271.”;

- (b) by omitting sub-section (2.) of section two hundred and two and inserting in its stead the following sub-section:—

“ (2.) Such share when forfeited shall be sold by public auction, notice whereof shall be advertised in a daily paper published or circulating in the Territory.”;

- (c) by omitting from section two hundred and fifty-eight the words “ before two or more justices of the peace ” and inserting in their stead the words “ a Magistrate appointed or holding office under the *Court of Petty Sessions Ordinance (No. 2) 1930* ”;
- (d) by omitting sections two hundred and sixty-five to two hundred and seventy-one (inclusive); and
- (e) by omitting from the Third Schedule the word “ Sydney ” (wherever occurring) and inserting in its stead the word “ Canberra ”.

Fees.

11. Sub-section (2.) of section fifteen and section one hundred and sixty-six of the Companies Act, 1899, Table B in the Second Schedule and the Eighth Schedule to that Act shall cease to apply to the Territory.

Power of companies to change names.

12. Section two hundred and twenty-five of the Companies Act, 1899 is amended by omitting the words “, testified in writing under the hand of the Clerk of the Executive Council ”.

Registration of foreign companies.

13. Section seven of the Companies (Amendment) Act, 1906 of the State of New South Wales in its application to the Territory is amended—

- (a) by omitting from sub-section (1.) the words “ in any country, colony, or state other than New South Wales ” and inserting in their stead the words “ outside the Territory ”; and
- (b) by omitting from that sub-section the words “ this Act ” and inserting in their stead the words “ the *Companies Ordinance 1931* ”.

Application of Companies (Amendment) Act, 1907 to the Territory.

14. Section six of the Companies (Amendment) Act, 1907 of the State of New South Wales, in its application to the Territory, is amended by omitting section six.

Transfer of records.

15.—(1.) The Governor-General may arrange with the Governor of the State of New South Wales for the handing over to the Attorney-General of all instruments and documents required by the Companies Acts or by the Companies (Registration of Securities) Act, 1918 to be registered, enrolled, recorded, filed or deposited by or with the Registrar-General of the State in

respect of companies the registered offices of which are situate in the Territory or for the delivery to the Attorney-General of certified copies thereof duly certified by the Registrar-General of the State as correct copies.

(2.) All instruments or documents, or certified copies thereof, handed over in pursuance of the last preceding sub-section shall be as valid and effectual for all purposes as if they, or in the case of certified copies, the originals thereof, had been registered, enrolled, recorded, filed or deposited by or with the Registrar under this Ordinance.

(3.) All instruments, documents, or certified copies received by the Attorney-General under this section shall be handed over to the Registrar.

(4.) Any reference in any instrument, document or certified copy thereof handed over in pursuance of this section, or in the memorandum or articles of association or in any resolution or instrument of any company to which this section applies, to any person, authority, place or thing shall be read subject to such modifications as are specified in section eight of this Ordinance or as are prescribed.

16. Any company registered on the date of the commencement of this Ordinance under the Companies Acts, the registered office of which is situate in the Territory, shall be deemed to be subject to the provisions of this Ordinance, as if this Ordinance had been in force at the date of its registration and it had been registered thereunder.

Companies deemed to have been registered under Ordinance.

17. Notwithstanding anything contained in this Ordinance where any action or proceedings have been instituted before the commencement of this Ordinance in connexion with the winding-up in pursuance of the Companies Act, 1899 of any company, the head office of which is situate in the Territory, the action or proceedings may be continued or determined as if this Ordinance had not been made.

Saving.

18. Any person may, on payment of the prescribed fee, inspect the documents kept by the Registrar, and may, on payment of the prescribed fee, require a copy or extract of any document or part of a document to be certified by the Registrar, and that certified copy or extract shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

Inspection of documents.

19.—(1.) The Justices of the High Court or a majority of them may make rules prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to Part III. of the Companies Act, 1899, in its application to the Territory.

Rules.

(2.) All such rules shall—

- (a) be notified in the *Gazette*;
- (b) take effect from the date of notification or from a later date specified in the rules; and
- (c) be laid before both Houses of the Parliament within forty days after they are made if the Parliament is then sitting, or, if the Parliament is not then sitting, then within forty days after the next meeting of the Parliament.

(3.) If an address is presented to the Governor-General by either House of the Parliament within forty sitting days after the Rule is laid before it, praying that any such Rule be annulled, the Governor-General may thereupon annul it; and the Rule so annulled then thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which have in the meantime been taken under it.

(4.) Subject to Rules made under this Ordinance and so far as such Rules do not extend, the practice and procedure of the Court in so far as the jurisdiction conferred upon it by this Ordinance is concerned shall be regulated as nearly as may be according to Rules made under the *Judiciary Act* 1903-1927 and the *High Court Procedure Act* 1903-1925, and so far as such last mentioned Rules do not extend, as nearly as may be according to the practice and procedure of the Supreme Court of the State of New South Wales under the Rules made in pursuance of section two hundred and sixty-five of the *Companies Act*, 1899 of that State.

Regulations.

20. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance or the Companies Acts or by the Companies (Registration of Securities) Act, 1918 are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance or those Acts, and in particular for prescribing the fees to be paid in respect of matters arising under this Ordinance, the Companies Acts or the Companies (Registration of Securities) Act, 1918.

Dated the twenty-sixth day of November, One thousand nine hundred and thirty-one.

ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

FRANK BRENNAN

for Minister of State for Home Affairs.

By Authority: H. J. GREEN, Government Printer, Canberra.