

New Zealand.



ANALYSIS.

- | | |
|--|--|
| <p>Title.</p> <p>1. Short Title.</p> <p style="text-align: center;">PROMOTERS' SHARES.</p> <p>2. Promoters' shares.</p> <p>3. Copy of prospectus to be filed.</p> <p>4. Transfer of promoters' shares.</p> <p style="text-align: center;">CONTRACTS RELATING TO PAID-UP SHARES.</p> <p>5. Penalty for non-compliance with "The Companies Act, 1882," section 34.</p> <p>6. Court empowered to grant relief for such non-compliance.</p> | <p>7. Application, how made.</p> <p>8. Court may make order.</p> <p style="text-align: center;">MORTGAGES BY COMPANIES.</p> <p>9. Registration of mortgages and charges. Mortgages to be registered within twenty-one days.</p> <p style="text-align: center;">STRIKING COMPANIES OFF REGISTER.</p> <p>10. Power of Registrar to strike defunct companies off register in certain cases.</p> |
|--|--|

1900, No. 40.

AN ACT to amend "The Companies Act, 1882."

Title.

[18th October, 1900.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Companies Act Amendment Act, 1900"; and it shall form part of and be read together with "The Companies Act, 1882" (hereinafter called "the principal Act").

Short Title.

PROMOTERS' SHARES.

2. (1.) In every prospectus issued for the purpose of inviting subscriptions to the share capital of any company proposed to be registered there shall be fully set out the names and addresses of all provisional directors or other persons to whom any shares are allocated, or intended to be allocated, otherwise than upon payment or liability for the payment of the full amount represented by such shares, which shares shall be specified and described as "promoters' shares."

Promoters' shares.

(2.) Such prospectus shall also set out clearly and fully any special conditions attaching to or connected with the allocation of such promoters' shares.

(3.) Shares given in lieu of cash in payment of any property acquired by the company shall not be deemed to be promoters' shares within the meaning of this section.

Copy of prospectus
to be filed.

3. A certified copy of every such prospectus shall be delivered to the Registrar prior to the registration of the company, and the Registrar shall refuse to register the company unless such copy has been so delivered.

Transfer of pro-
moters' shares.

4. Promoters' shares, as defined in section two hereof, shall not be capable of being transferred until after the expiration of two years from the date of the registration of the company, or, in the alternative, until such company has paid a dividend upon at least one year's operations; and if the company is wound up or goes into liquidation within such period of two years or one year, as the case may be, then promoters' shares shall not entitle the holder thereof to participate in any distribution of the assets of the company.

CONTRACTS RELATING TO PAID-UP SHARES.

Penalty for non-
compliance with
"The Companies
Act, 1882," sec-
tion 34.

5. Whenever after the commencement of this Act any shares in the capital of any company credited as fully or partly paid up are issued for a consideration other than cash to the full amount of the nominal value of such shares at least, but at or before the issue of such shares no sufficient contract is filed with the Registrar in compliance with section thirty-four of the principal Act, then in every such case each of the directors and officers concerned in the issue shall be deemed to be guilty of an offence against the provisions of this Act, and, upon summary conviction of any such offence, shall be liable to a penalty of one pound in respect of every share so issued.

Court empowered to
grant relief for such
non-compliance.

6. Whenever before or after the commencement of this Act any shares in the capital of any company credited as fully or partly paid up are issued for a consideration other than cash, and at or before the issue of such shares no sufficient contract is filed with the Registrar in compliance with section thirty-four of the principal Act, the company or any person interested in such shares or any of them may apply to the Court for relief, and the Court, if satisfied that the omission to file a sufficient contract was accidental or due to inadvertence, or that for any reason it is just and equitable to grant relief, may make an order for the filing with the Registrar of a sufficient contract in writing, and directing that on such contract being filed within a specified period it shall, in relation to such shares, operate as if it had been duly filed with the Registrar aforesaid before the issue of such shares.

Application, how
made

7. (1.) Any such application may be made in the manner in which an application to rectify the register of members may be made under section forty-five of the principal Act, and either before or after an order has been made or an effective resolution has been passed for the winding-up of such company, and either before or after the commencement of any proceedings for enforcing the liability on such shares consequent upon the omission aforesaid.

(2.) If such application is not made by the company, notice of the same shall be served on the company.

Court may make
order.

8. Any such order may be made on such terms and conditions as the Court thinks fit, and the Court may make such order as to the rectification of the register of members and otherwise, and as to costs, as it deems proper, and may direct that an office copy of

the order shall be filed with the Registrar; and every such order shall in all respects have full effect.

MORTGAGES BY COMPANIES.

9. Every mortgage created by a company after the commencement of this Act, and being—

Registration of mortgages and charges.

- (1.) A mortgage of uncalled or unpaid capital of the company; or
- (2.) A mortgage for the purpose of securing any issue of debentures; or
- (3.) A floating mortgage on the undertaking or property of the company, not being a mortgage subject to any other part of this section, and not being a lien by law or a mortgage created in the ordinary course of business,—

shall be subject to the following provisions:—

- (a.) No such mortgage shall be operative or have any validity at law or in equity unless the same is in writing, nor unless within twenty-one days after the execution of the instrument creating the mortgage the same is registered in the office of the Registrar by lodging in such office the instrument creating the mortgage, or a copy thereof, such copy to be accompanied by an affidavit of the execution of the instrument, and verifying it as a true copy.
- (b.) For such registration there shall be paid to the Registrar a fee of five shillings.

Mortgages to be registered within twenty-one days.

STRIKING COMPANIES OFF REGISTER.

10. (1.) When the Registrar has reasonable cause to believe that a company, whether registered before or after the passing of this Act, is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

Power of Registrar to strike defunct companies off register in certain cases.

(2.) If within one month after sending the letter the Registrar does not receive any answer thereto he shall, within fourteen days after the expiration of the month, send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received by the Registrar, and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the *Gazette* with a view to striking the name of the company off the register.

(3.) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer thereto, the Registrar may publish in the *Gazette*, and send to the company, a notice that, at the expiration of three months from the date of that notice, the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register, and the company will be dissolved.

(4.) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike the name of the company off the register, and

shall publish notice thereof in the *Gazette*, and on the publication in the *Gazette* of such last-mentioned notice the company whose name is so struck off shall be dissolved:

Provided that the liability (if any) of every director, managing officer, and member of the company shall continue, and may be enforced as if the company had not been dissolved.

(5.) If any company or person feels aggrieved by the name of the company having been struck off the register in pursuance of this section, such company or person may apply to a Judge of the Supreme Court, and such Judge, if satisfied that it is just so to do, may order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had never been struck off.

(6.) A letter or notice authorised or required for the purposes of this section to be sent to a company may be sent by post addressed to the company at its registered office; or, if no office has been registered, addressed to the care of some director or officer of the company; or, if there is no director or officer of the company whose name and address are known to the Registrar, the letter or notice (in identical form) may be sent to each of the persons who subscribed the memorandum of association, addressed to him at the address mentioned in that memorandum.