

COMPANIES (BONDHOLDERS INCORPORATION) BILL.

EXPLANATORY MEMORANDUM.

THIS Bill arises out of the report of the Companies Commission in so far as it relates to bond-issuing companies. It is intended to remove certain difficulties that have been experienced or are contemplated in realizing on behalf of the holders of such bonds the products affected by the bonds. Bonds have been issued by approximately fifty companies that are now operating more or less actively, and they relate to tobacco, citrus fruits, flax, tung oil, or timber. In almost all cases the bondholders are represented by trustees upon whom the duty of realization ordinarily falls. It was shown to the satisfaction of the Commission that realization schemes could not effectively be carried out by the trustees. Further, the trustees for one issue of bonds have no power to combine with the trustees for other issues in carrying out a joint realization scheme. In certain cases it is necessary for economical and efficient working that there should be such combination. The Commissioners considered it to be desirable, too, that the bondholders should have a greater measure of control over realization than is possible without their incorporation.

With a view to removing the difficulties referred to above, the Bill provides in the first place for the incorporation of the bondholders of any bond-issuing company into a limited company. To ensure that this is effected upon an equitable basis, the conversion of bonds into shares will be under the supervision of a Commission of three persons to be appointed by the Governor-General. Provision is made for the payment of levies and fees at rates to be so fixed that the expenses of administering the Act will be borne by the concerns affected and not by the Consolidated Fund.

There are three steps to be taken by companies affected by the Bill.

The first step is to supply to the Registrar of Companies a statement of facts, so that the proposed Commission will have a complete list of the companies affected and a sufficient general description of their business.

The second step is that every such company, or the trustee for its bondholders, may be required to submit a scheme for incorporating the company's bondholders, or any section of them, into a company. In addition to considering any scheme so submitted, the Commission may consider proposals made by any other person and may then make an order for incorporation. Provisions are included in the Bill so that upon the incorporation the bonds will be converted into shares and the rights of the bondholders will not be altered more than is absolutely necessary to enable the conversion to be effected. The shares issued to bondholders will entitle them, as nearly as may be, to the same proportionate interests in the same assets as did their bonds. This company will be a new company distinct from the bond-issuing company. Any interest of the bond-issuing company in land or produce affected by bonds will also be exchanged for shares, if so directed by the Commission.

The third step is an application to the Commission to make such adjustments in the rights of the shareholders of the new company as may be necessary to enable realization proposals to be effectively carried out. It is contemplated that in some cases it will be found necessary for various groups of bondholders to realize their lands jointly, and in such cases some adjustment will have to be made as between the various groups and also as between the bondholders company and the bond-issuing company.

In any such adjustment the shareholders in the bondholders company will be protected, in the first place, because the application has to be made by their own directors after the statutory meeting, and secondly by the provision made in the Bill for the hearing by the Commission of all parties affected. If the Commission thinks it desirable, it may provide for dissentients by partitioning off a proportionate part of the lands or produce and reinstating the dissentient shareholders to their former position of bondholders.

To enable the bondholders company to raise further capital for its realization project, it is provided that the Commission may exempt the company or any realization company formed by it from the provisions in the Companies Act relating to share-hawking and to the obtaining of the minimum subscription within four months, but this exemption relates only to issues to existing shareholders of the bondholders company. As no income will be earned by the company until its realization project is under way, it is provided that interest on new share capital may be paid with the consent of the Commission, instead of requiring the consent of the Supreme Court as in the case of other companies.

It is further provided that dividends may be paid to one group of shareholders notwithstanding that there may be a loss in respect of any part of the company's undertaking allocated to any other group.

The above statement deals with the main objects and governing principles of the Bill. The Bill also contains certain miscellaneous provisions, not affecting the general principles. Of these the following are the most important :—

- (1) No stamp duty is payable in respect of any conveyance of land from the trustee for the bondholders to the bondholders company, if made in pursuance of an order of the Commission. As duty must be paid on the transfer from the bond-issuing company to the trustee, it is considered that the additional duty which would become payable by virtue of the compulsory transfer to a new company under the Act should not be charged. (Clause 32.)
- (2) The bond-issuing company may advance moneys to shareholders in the bondholders company or to the bondholders company. (Clause 33.)
- (3) The bondholders company may reissue shares surrendered by bondholders under the provisions contained in the Bill. (Clause 35.)
- (4) Section 386 of the Land Act, 1924 (relating to the exemption from limitation of area of land that may be acquired), which already provides for the exemption of afforestation companies, is extended to include a company formed in pursuance of the present Bill and the trustee for bondholders. (Clause 36.)
- (5) In the case of any bondholders company which acquires bonds affecting timber or flax, the deduction allowable in its income-tax assessment for the cost of such timber or flax is to include such part of the cost to it of the bonds as in the opinion of the Commissioner of Taxes is attributable to the timber or flax. A deduction for the cost of timber or flax is already allowable in the case of companies deriving income from the sale of those products. This provision makes it clear that the bondholders company will not lose this deduction merely because the shares issued to bondholders are in form an exchange for bonds and not an exchange for the timber lands or flax lands affected by the bonds. (Clause 37.)
- (6) Share-certificates and other documents issued to shareholders in a bondholders company are required to state that no shareholder has any claim upon the public revenues, and that the Government assumes no responsibility for the undertaking. (Clause 39.)

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
14th February, 1935.*

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]
Legislative Council, 21st February, 1935.

Right Hon. Mr. Coates.

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A BILL INTITULED

Title.	AN ACT to make Provision for the Incorporation of the Holders of Bonds issued by certain Afforestation and other Companies incorporated for the Purpose of making or maintaining Plantations, for facilitating the Realization of the Land or Produce affected by such Bonds, and for Matters incidental thereto. 5
Preamble.	WHEREAS certain companies incorporated in New Zealand have issued to persons in New Zealand and elsewhere bonds which entitle the holders thereof to share in land in New Zealand with trees or plants thereon intended to be used for commercial purposes, or in the produce of such trees or plants, or in the proceeds of the realization of such land and produce or of such produce: And whereas in certain cases trusts and trust funds have been established for the purposes of such bonds: And whereas on account of the fact that the bondholders are not incorporated, and of the fact that the powers of the trustees acting on their behalf are limited, difficulties have arisen or may arise in connection with the realization of such land or produce: And whereas it is expedient that provision should be made for the removal of such difficulties, and in particular for the incorporation of such bondholders and for setting up a Commission for the purpose of inquiring into and determining the respective rights of bondholders, bond-issuing companies, and other persons interested in the subject-matter of any bonds upon any such incorporation, and any adjustment or modification of those rights which may be necessary or desirable to enable or assist any bondholders company to realize or turn to account any part of its property: 10 15 20 25 30
Short Title.	BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 1. This Act may be cited as the Companies (Bondholders Incorporation) Act, 1934–35. 35
Interpretation	2. (1) In this Act, unless the context otherwise requires,— “Bond” means an instrument (being one of a series of similar instruments issued by or on account of any company incorporated in New Zealand) which entitles or purports to entitle the holder thereof to share in any land in New Zealand with trees or plants growing or 40

to be grown thereon intended to be used for commercial purposes, or in the produce of such trees or plants, or in the proceeds of the realization of such land and produce or of such produce; and includes a contract for the issue of any such instrument :

“ Bondholder ” or “ the holder of a bond ” means the owner of a bond :

“ Bondholders company ” means a company formed in pursuance of this Act for the incorporation of bondholders :

“ Bond-issuing company ” means a company by or on account of which any bonds have been issued :

“ Commission ” means the Bondholders Incorporation Commission constituted under this Act.

(2) Where a company has agreed to procure the issue of bonds by a trustee for the bondholders the bonds so issued shall for the purposes of this Act be deemed to have been issued by or on account of such company and not by such trustee.

3. (1) Every bond-issuing company shall, within three months after the passing of this Act, deliver to the Registrar of Companies at Wellington a statement in accordance with this section, to be filed by the Registrar, with other documents open to public search.

(2) Every statement under this section shall contain the following particulars :—

(a) The name of the bond-issuing company :

(b) The situation of its registered office :

(c) The names and addresses of its secretary and of its directors :

(d) The names and addresses of the trustees (if any, for its bondholders, and the amount of any trust fund held by any such trustee :

(e) The number and face-value of the bonds issued by or on account of the company :

(f) The total area of the lands affected by the bonds issued by or on account of the company :

(g) Such other particulars as may be prescribed by regulations under this Act or as may be required by the Registrar.

(3) If default is made in complying with any of the provisions of this section, the company and any director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable on summary conviction to a fine of one

Statement to be delivered to Registrar of Companies by bond-issuing companies.

hundred pounds, and to a further fine of *twenty* pounds for every day during which the default continues.

(4) No prosecution for an offence against this section shall be commenced except with the leave of the Attorney-General.

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Bondholders Incorporation Commission.

Constitution of Commission.

4. (1) For the purposes of this Act there shall be established a Commission to be called the Bondholders Incorporation Commission.

(2) The Commission shall consist of three persons, to be appointed by the Governor-General and to hold office during his pleasure. One such person shall be appointed by the Governor-General to be the Chairman of the Commission.

(3) In the event of the absence or temporary incapacity of the Chairman of the Commission the Governor-General may appoint any person to act as Chairman. In the event of the absence or temporary incapacity of any member of the Commission the Governor-General may appoint any person to act in the place of such member. Every person so appointed shall, while such absence or incapacity continues, be deemed for all purposes to be a member of the Commission, and, in the case of a person appointed to act as Chairman, to be the Chairman of the Commission.

(4) The powers of the Commission shall not be affected by any vacancy in the membership thereof.

Constitution of Commission not to be questioned.

5. (1) The appointment of the Chairman, or of a member, or of an acting Chairman or acting member of the Commission, shall not be questioned on any ground whatsoever; and no act done by the Commission sitting with an acting Chairman or acting member, or done by an acting Chairman or acting member, shall be questioned on the ground that the occasion for the appointment of such acting Chairman or acting member, or for his acting as the Chairman or a member of the Commission, had not arisen or had ceased.

(2) Whether the Commission at any sitting thereof is duly constituted as required by the provisions of this Act or has been duly convened for such sitting are matters to be determined by the Chairman, whose decision thereon shall be final and conclusive, and shall not be questioned in any proceedings before the Commission or in any Court.

(3) The fact that a sitting of the Commission has been held shall be conclusive evidence of a decision by the Chairman that the Commission was properly constituted at and duly convened for that sitting.

- 5 **6.** (1) The members of the Commission shall be entitled to receive such allowances as may be prescribed and all travelling-expenses reasonably incurred by them in respect of their attendance at sittings of the Commission and in transacting the business thereof. Remuneration of Commission.
- 10 (2) All such amounts shall be paid out of the Consolidated Fund.
- 7.** There shall be appointed as officers of the Public Service a Clerk of the Commission and such other officers of the Commission as may be deemed necessary. Clerk and other officers.
- 15 **8.** The Commission shall have a seal, in such form as the Chairman approves. Judicial notice shall be taken of the seal by all Courts and for all purposes. Seal of the Commission.
- 9.** The Clerk of the Commission shall keep proper books in which shall be entered minutes of all proceedings before the Commission. Records.
- 20 **10.** (1) The Commission shall sit at such times and places as the Chairman from time to time determines. Sittings of Commission.
- (2) At any sitting of the Commission two members (of whom one shall be the Chairman *or Acting-Chairman*) shall form a quorum.
- 25 (3) The Commission may, if it thinks fit, refer any matter or proceeding before it to any member or members of the Commission for inquiry and report, and for the purposes of any such inquiry such member or members shall have all the powers of the Commission.
- 30 **11.** (1) The decision of a majority of the members present at a sitting of the Commission, or, if the members present are equally divided in opinion, then the decision of the Chairman shall be the decision of the Commission. Decisions.
- 35 (2) The decision of the Commission in every case shall be delivered by the Chairman.
- (3) Every order made by the Commission shall be signed by the Chairman and sealed with the seal of the Commission. Orders to be sealed.
- 40 **12.** Subject to the provisions of this Act, the provisions of sections three to nine and of section eleven of the Commissions of Inquiry Act, 1908, shall, with the necessary modifications, apply with respect to the Commission and to proceedings before it as if it were Commissions of Inquiry Act to apply.
See Reprint of Statutes, Vol. I, p. 1037
- 45 a Commission under that Act and as if the proceedings before the Commission were an inquiry under that Act.

Evidence Act,
with certain
modifications,
to apply.

13. (1) The Commission may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter that in the opinion of the Commission may assist the Commission to deal effectually with the matters before it, whether or not the same would be legally admissible evidence in a Court of law.

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See Reprint
of Statutes,
Vol. III, p. 106

(2) Subject to the foregoing provisions of this section, the Evidence Act, 1908, shall apply to the Commission and to the members thereof and to all proceedings before it in the same manner as if the Commission were a Court within the meaning of that Act.

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Proceedings to
be private.

14. (1) ~~The sittings of the Commission shall not be open to the public, and~~ *The Commission may in its discretion hold sittings not open to the public.*

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(1A) No report or account of any such sitting or of any evidence or proceedings before the Commission shall be published in any newspaper save with the consent of the Commission.

(2) Every person who publishes or causes to be published any report or account in contravention of the provisions of this section shall be liable on summary conviction to a fine of *one hundred pounds*.

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Procedure of
Commission.

15. The procedure of the Commission shall, subject to this Act and to any regulations thereunder, be such as the Commission thinks fit.

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Incorporation of Bondholders.

Order for scheme
for incorporation
of bondholders.

16. (1) The Commission may at any time make an order requiring that a scheme for the incorporation, in accordance with the following provisions of this Act, of the holders of bonds issued by or on account of any bond-issuing company, or of the holders of any specified class or classes of such bonds, be submitted to the Commission by the bond-issuing company, or by any trustee for the bondholders, on or before a date to be specified in that behalf in the order, being not earlier than three months after the date of the order. Successive orders may be made from time to time under this subsection in respect of the bonds or of any specified classes of bonds issued by or on account of any bond-issuing company.

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(2) Any order under this section may be made on the application of the bond-issuing company or of any bondholder or of any trustee for the bondholders, but an order shall not be made on any application to which the bond-issuing company or any such trustee is not

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a party until the company or trustee, as the case may be, has had such opportunity as the Commission considers reasonable of being heard on the application.

(3) If any bond-issuing company or trustee is ordered to submit a scheme under this section and fails without reasonable cause (the burden of proving which shall be on the defendant) to do so within the time specified in that behalf in the order, or within such extended time as may be allowed by the Commission, such company or trustee, and in the case of a company (including a company acting as trustee) any director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default, shall be guilty of an offence against this Act, and shall be liable on summary conviction to a fine of *one hundred* pounds, and to a further fine of *twenty* pounds for every day during which the default continues.

(4) Where an order has been made for the submission by any person of a scheme for the incorporation of the holders of bonds issued by or on account of a bond-issuing company (whether or not a scheme is submitted by that person), any other person may submit to the Commission proposals in respect of the incorporation of the holders of any bonds issued by or on account of such bond-issuing company.

17. (1) Where a scheme has been submitted in pursuance of an order made under the *last preceding* section, or where default has been made in complying with any such order, the Commission, after considering the scheme and proposals (if any) submitted under the *last preceding* section, but without being bound by any such scheme or proposal, may make an order that a company (in this Act referred to as the bondholders company) be formed under the Companies Act, 1933, and by such order (hereinafter referred to as the order for incorporation) may make such provisions, not inconsistent with this Act, or with the Companies Act, 1933, as modified by this Act, as the Commission thinks fit in relation to the formation of the bondholders company, and in particular, without limiting the generality of the foregoing provisions, with respect to the following matters:—

(a) The contents of the memorandum and articles of association:

(b) The situation of the registered office:

Commission may make order for incorporation of bondholders company.

- (c) The names of the first directors :
- (d) The amount of share capital with which the company is to be registered, its division into shares, and, if necessary, into classes of shares, the rights and conditions attached to each class of shares, the persons to whom the shares are to be allotted, and the amount to be deemed to be paid up on each share : 5
- (e) The grant or loan to the bondholders company by the trustees of any trust fund established for the protection of the bondholders or any of them, out of the trust fund, or, if and so far as there is no such fund, the loan to the bondholders company by the bond-issuing company, of such amounts as the Commission may consider necessary or expedient, on such terms as the Commission determines, to provide for the promotion and incorporation of the bondholders company and for matters preliminary or incidental thereto, and for the furtherance of the objects of the bondholders company, or the interests of the bondholders : 10 15 20
- (f) The repayment by the bondholders company of any expenditure incurred by any person, whether before or after the passing of this Act, for purposes in the opinion of the Commission beneficial or likely at the time of the incurring of the expenditure to be beneficial to the interests of the bondholders or of any class of the bondholders, including, without limiting the generality of the foregoing provision, the whole or any part of any levies, fees, costs, or expenses in relation to proceedings under this Act : 25 30
- (g) The surrender of bonds, and the delivery of all title deeds and other documents of title in relation to any property affected by the order. 35
- (2) The order for incorporation may from time to time be added to or varied by subsequent orders made by the Commission. All such subsequent orders shall be deemed to be part of the order for incorporation. 40
- 18.** (1) The order for incorporation shall provide for the vesting in the bondholders company upon the incorporation of that company, without any transfer or assignment, of the bonds to which the order relates and all benefits thereunder, and for the allotment to each 45

Bondholders to receive shares in exchange for their bonds entitling them to the same rights.

bondholder of a share or shares which will, as nearly as may in the opinion of the Commission be practicable, entitle him to the same proportionate interest in the same property and rights as he was or would be entitled to under his bond or bonds.

(2) Upon the vesting of any bonds in the bondholders company in pursuance of the order for incorporation, all such liabilities of the bondholders in respect of their bonds as may be specified in the order, being—

(a) Liabilities of the individual bondholders for the balance (if any) remaining unpaid to the bond-issuing company for the issue of the bonds; or

(b) Liabilities incurred on behalf of all the bondholders or on behalf of all the members of any class of the bondholders—

shall be deemed to have become liabilities of the bondholders company and to have ceased to be liabilities of the bondholders.

(3) Subject to the last preceding subsection, every bondholder shall remain bound by all encumbrances, trusts, and liabilities in relation to his bonds, and they shall affect the shares allotted to him in the bondholders company to the extent to which the bonds represented by such shares were affected by such encumbrances, trusts, and liabilities immediately prior to the incorporation of the bondholders company.

(4) The amount deemed to be unpaid on any share or shares allotted in pursuance of the order for incorporation, as provided in subsection one hereof, shall not exceed the amount (if any) unpaid on the bond represented thereby, and the order for incorporation shall provide for the making of calls in respect of such unpaid amounts corresponding, as nearly as may in the opinion of the Commission be practicable, to the instalments payable on the bonds.

(5) Without limiting the foregoing provisions of this section, where any bondholder has any rights in respect of the surrender of his bonds the order for incorporation shall make provision for the holder of the shares representing such bonds having as nearly as may be the same rights in respect of the surrender of such shares.

(6) Subject to the foregoing provisions of this section, if any question arises as to the ownership of any bond,

if the bond is not registered in the name of the bondholder, the order for incorporation shall provide for the determination of the ownership of such bond.

interest bond
of the bond

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or as to the rights or liabilities of any bondholder under his bonds, or as to any other matter referred to in this section, it shall be determined by the Commission.

Bond-issuing company's rights in the land may be vested in bondholders company in exchange for shares.

19. (1) Where the bond-issuing company is entitled to any rights or interests in any land or produce affected by the bonds, including any rights or interests represented by bonds that have been forfeited, or surrendered, or transferred to or otherwise vested in the bond-issuing company, the order for incorporation may, if the Commission thinks fit, provide for the vesting in the bondholders company, upon the incorporation of that company, without any conveyance, transfer, or assignment, of all or any of those rights or interests, subject to such encumbrances and liabilities and upon such terms as may be specified in the order, and for the allotment to the bond-issuing company in consideration thereof of shares of such number, class, and nominal value, having such amounts deemed to be paid up thereon, and with such rights and conditions attached thereto, as the Commission considers just and equitable, so as to entitle the bond-issuing company as nearly as may be to the same proportionate interest in the land or produce as it would have been entitled to but for the vesting of such rights or interests in the bondholders company.

(2) The order for incorporation may provide for the payment by the bond-issuing company to the bondholders company of such amounts, or the giving of such other considerations, in such manner, and at such times, as may be agreed upon, or, in default of agreement, as may be determined by the Commission, in respect of the cost of collecting the amounts unpaid on shares representing bonds vested in the bondholders company, or in respect of any actual or estimated loss or deficiency in collecting or attempting to collect such amounts.

Incorporation of bondholders company.

20. (1) A sealed copy of the order for incorporation shall be delivered to the Registrar of Companies for registration, by such person as may be determined by the Commission, and thereupon, after compliance with the provisions of the Companies Act, 1933, in that behalf, the bondholders company shall be registered under that Act.

(2) Section one hundred and four of the Companies Act, 1933, shall not apply to the bondholders company.

Shares deemed to be duly allotted.

21. (1) Upon the incorporation of the bondholders company the shares in the capital thereof shall be deemed to have been duly allotted to the respective

persons specified in that behalf in the order for incorporation. The validity of any such allotment shall not be questioned on any ground whatever.

(2) Sections fifty to fifty-three of the Companies Act, 1933, shall not apply with respect to any such allotment.

Adjustment of Rights.

22. (1) At any time after the statutory meeting of the bondholders company has been held, the company may from time to time apply to the Commission for an order in respect of all or any of the matters specified in the next succeeding subsection, and any shareholder may from time to time apply to the Commission for an order in respect of any of the matters specified in paragraph (b) of that subsection.

Commission may make orders to facilitate realization.

15 (2) On any such application the Commission, after hearing the applicant and any other persons who may apply to the Commission to be heard and who appear to the Commission to be interested in the application, and after calling such meetings (if any) of the shareholders and conducting such postal ballots (if any) as the Commission may think fit, may make such order as it considers necessary or expedient in relation to all or any of the following matters :—

25 (a) The reconstruction of the bondholders company, the reorganization of the share capital, the variation or abrogation of the rights attached to any class of shares, the formation of other companies to take over the whole or a part of the undertaking of the bondholders company, and the amalgamation of the bondholders company with any other company :

30 (b) The surrender of the shares allotted to any shareholders who may desire to be excluded from the bondholders company and the vesting in them or in a company or trustee, as may be determined by the Commission, of their bonds, and of a proportionate part of the land or produce affected by the bonds and of any trust fund established for the protection of the bondholders, the modification of such bonds or of any trusts established for the protection of the bondholders, or the substitution of new bonds or trusts therefor, and generally the placing of such shareholders as nearly as may in the

opinion of the Commission be practicable in the same position as they would have been in if the bondholders company had not been incorporated:

(e) The termination of any trusts established for the protection of the bondholders and the discharge of the trustees, and the fixing of a time, being not less than *one year* after the making of the order, after which no proceedings shall be commenced against any trustee in respect of any breach of such trusts:

(d) The disposal, in accordance with any agreement made between the bond-issuing company and the bondholders company, of any real or personal property held subject to any trust established for the protection of the bondholders:

(e) The variation, extension, or abrogation, in accordance with any agreement made between the bond-issuing company and the bondholders company, of their mutual rights and obligations, and the substitution therefor, in accordance with an agreement made as aforesaid, of new rights or obligations:

(f) The exemption from all or any of the provisions of sections fifty and three hundred and forty-three of the Companies Act, 1933, of offers to shareholders of the bondholders company of any specified shares in or debentures of the bondholders company or any other company that has taken over the whole or a part of the undertaking of the bondholders company:

(g) The payment to its shareholders by the bondholders company or by any other company that has taken over the whole or a part of the undertaking of the bondholders company of interest on share capital in cases to which section sixty-six of the Companies Act, 1933, applies, and in accordance with the provisions of that section, save that for the purposes of this paragraph the said section sixty-six shall be read as if the references therein to the Court were omitted and references to the Commission were substituted therefor:

- 5 (h) The payment of dividends from time to time to the holders of any class of shares out of profits made by the bondholders company from any part of its undertaking which is allocated to such class of shares, notwithstanding any loss that may be incurred by the company in respect of any other part of its undertaking :
- 10 (i) The execution of transfers, contracts, and other documents, and the delivery of all title deeds and other documents of title required to give effect to the order :
- (j) Any other matters relating to the realization or utilization of the property of the bondholders company or any part thereof.

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Miscellaneous.

20 **23.** (1) There shall be payable to the Public Account in respect of any application to or order by the Commission or any proceedings before it such fees as may from time to time be prescribed by regulations under this Act.

Fees for proceedings before Commission.

(2) Subject to the provisions of any regulations as aforesaid, such fees shall be paid by such party or parties to the proceedings or other persons affected thereby in such manner and at such time or times as the Commission directs.

(3) A fee of *five* shillings shall be payable for the registration of every document delivered to the Registrar of Companies for registration under this Act.

Registration fees.

30 **24.** (1) For the purpose of providing any amount by which the total costs and expenses of the Commission may exceed or may be estimated to exceed the total amount received or estimated to be received by way of fees under this Act, the Commission, where it makes an order under section *sixteen* hereof for the submission of a scheme for the incorporation of any bondholders of any bond-issuing company, may, by that order or by any subsequent order or orders, made not later than two years after the passing of this Act, make in respect of the bond-issuing company for payment into the Public Account a levy of such amount as the Commission thinks fit, but so that the total amount of all such levies in respect of the company shall not exceed *two hundred* pounds.

Levies on bond-issuing companies.

(2) The amount of every such levy shall become payable on a date and in a manner to be fixed by the Commission, and shall be payable by the bond-issuing company or by any trustee or trustees for the holders of bonds issued by or on account of that company or partly by the company and partly by any such trustee or trustees, as may be determined by the Commission. 5

Recovery of
levies and fees.

25. All levies and fees payable under this Act shall be recoverable in any Court of competent jurisdiction by the Registrar of Companies on behalf of the Crown by suit in his official name. 10

Reference of
points of law to
Supreme Court.

26. (1) The Chairman of the Commission may in any proceedings before the Commission, and shall if so directed by the Court, state a case for the opinion of the Supreme Court on any question of law arising in the proceedings. 15

(2) The decision of the Supreme Court shall be final and binding upon all parties to the proceedings and upon the Commission.

General
jurisdiction of
Commission.

27. (1) Subject to the foregoing provisions of this Act, the Commission shall, in every matter coming before it, have full power and jurisdiction to deal with and determine such matter and all questions arising in connection therewith, and to make such order, not inconsistent with the provisions of this Act, as it deems just and equitable under the circumstances of the case, notwithstanding that express provision in respect of such matter or questions is not contained herein. 25

(2) In the course of any proceedings before it the Commission may, with or without any application and upon such terms as to notice to parties and otherwise as the Commission thinks fit, proceed to exercise any part of its jurisdiction the exercise of which in those proceedings the Commission deems necessary or advisable. 30

Orders to bind
all bondholders
and shareholders.

28. Every order of the Commission purporting to affect the rights or liabilities of all the bondholders of any bond-issuing company or of any class of them, or of all the shareholders of any bondholders company or of any class of them, shall be binding on all the bondholders or on all the shareholders, or on all the members of the class of bondholders or shareholders, as the case may be. 40
Nothing in section seventy-three or in section one hundred

and fifty-nine of the Companies Act, 1933, shall apply with respect to any order of the Commission or with respect to any variation, compromise, or arrangement effected pursuant to any such order.

- 5 **29.** Proceedings before the Commission shall not be held bad for want of form. No appeal shall lie from any order made by the Commission; and, except upon the ground of lack of jurisdiction, no order or proceeding of the Commission shall be liable to be challenged, reviewed, quashed, or called in question in any Court.
- 10 **30.** (1) For the purpose of enforcing any order of the Commission a copy of such order, under the seal of the Commission, may be filed without fee in any office of the appropriate Court, as determined under the *next succeeding* subsection, whereupon the order shall be deemed to be a final judgment or order of that Court in its civil jurisdiction, and shall be enforceable accordingly.
- 15 (2) The appropriate Court for the filing of such copy shall be—
- 20 (a) Where the order is exclusively an order for the payment of moneys not exceeding in all the sum of *one hundred* pounds, a Magistrate's Court; and
- (b) In every other case, the Supreme Court.
- 25 **31.** If the Commission so orders, a copy under the seal of the Commission of any order made by the Commission shall be forwarded to the Registrar of Companies for registration by such person and within such time as the Commission thinks fit.
- 30 **32.** No stamp duty shall be payable in respect of any order of the Commission; and no conveyance duty shall be payable in respect of any conveyance, transfer, or assignment of property held subject to a trust established for the protection of any bondholders if made by the trustee pursuant to an order of the Commission, or in respect of any agreement for any such conveyance, transfer, or assignment.
- 35 **33.** Notwithstanding anything to the contrary in the Companies Act, 1933, or in the memorandum or articles of association of any bond-issuing company, it shall be lawful for such company, without complying with the provisions of the Companies Act, 1933, relating to the

Proceedings not to be questioned for want of form or appealed against.

Enforcement of orders.

Registration of orders with Registrar of Companies.

Exemption from stamp duty.

Extension of powers of bond-issuing companies.

alteration of the memorandum or articles of companies, to do all or any of the following things, that is to say—

(a) To take, or otherwise acquire, and to hold and dispose of shares in a bondholders company or in any other company that has taken over the whole or a part of the undertaking of a bondholders company: 15

(b) To lend money to shareholders in a bondholders company or in any other company that has taken over the whole or a part of the undertaking of a bondholders company, or to any such company. 10

Companies and trustees, &c., may hold shares.

34. Notwithstanding anything to the contrary in any Act or rule of law, or in any memorandum of association, deed, will, or other instrument, every person, whether a company, a trustee, or any other person, to whom shares in a bondholders company are allotted in exchange for bonds pursuant to this Act, shall be deemed to be lawfully entitled to hold such shares in the same manner and upon the same terms as he was entitled to hold such bonds. 15 20

Surrendered shares may be reissued.

35. Any shares in a bondholders company surrendered in pursuance of an order of the Commission in that behalf may, unless the Commission otherwise orders, be reissued by the company to any person in the same manner as if they had not previously been issued. 25

Application of section 386 of Land Act (as to exemption from limitation of area that may be acquired).

See Reprint of Statutes, Vol. IV, p. 804

36. Section three hundred and eighty-six of the Land Act, 1924, is hereby extended to apply with the necessary modifications to the acquisition of land, whether pursuant to an order under this Act or otherwise, by any bond-issuing company, or by any bondholders company or other company formed in pursuance of this Act, or by any trustee under a trust established for the protection of any bondholders. 30

Proportionate part of cost of bonds to be included in cost of timber or flax for income-tax purposes.

See Reprint of Statutes, Vol. VII, p. 349

37. For the purpose of calculating the assessable income under paragraph (b) of subsection one of section four of the Land and Income Tax Amendment Act, 1930, of any bondholders company that has acquired any bonds affecting timber or flax, the cost of such timber or flax shall be deemed to include such part of the cost to the bondholders company of the bonds as in the opinion of the Commissioner of Taxes is attributable to the timber or flax. 35 40

38. The Commission, on the application of any bond-issuing company or of the trustee or trustees for its bondholders, may order that the provisions of this Act shall, with the necessary modifications, apply to such
5 company and to the bonds issued by or on account of it, notwithstanding that such bonds have before the passing of this Act been extinguished either wholly or in part by reason of the vesting of any land or property in a trustee for the bondholders.
- 10 39. Every share-certificate issued in relation to shares in a bondholders company, and every voting-paper, circular, or other communication issued to shareholders by direction of the Commission, shall state conspicuously on the face thereof that no shareholder has any claim in
15 respect of his shares upon the Government of New Zealand or upon the public revenues, and that the Government does not assume any responsibility whatever for the commercial or economic soundness of the company's undertaking.
- 20 40. The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or convenient for giving effect to the provisions of this Act.

Extension of application of Act to bonds wholly or partly extinguished.

Share-certificates, &c., to state that holders have no claim upon Government.

Regulations.