



ANNO VICESIMO QUINTO

GEORGII V REGIS.

A.D. 1935.

No. 2199.

An Act to amend the Companies Act, 1934.

[Assented to, 14th March, 1935.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Companies Act Amendment Act, 1935". Short title.

(2) The Companies Act, 1934, and this Act may be cited together as the "Companies Acts, 1934 and 1935". No. 2196 of 1934.

(3) The Companies Act, 1934, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation.

3. Section 27 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection :— Amendment of principal Act, s. 27—

(1A) No company shall be registered under a name identical with that of any friendly society mentioned in the Second Schedule to the Friendly Societies Act, 1919, or so nearly resembling the same as in the opinion of the Registrar to be calculated to deceive. Restriction on use of name of friendly society Cf. 1738, 1928, s. 5.

4. Section 43 of the principal Act is amended by inserting after the word "company" in the second line thereof, the words "or a private company". Amendment of principal Act, s. 43— Reduction of members below legal minimum.

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Amendment of principal Act, s. 99—
Definition of “charge”.

5. Section 99 of the principal Act is amended by striking out the words “ a company ” in the third line of paragraph (d) of subsection (1) thereof and inserting in lieu thereof the words “ the Commonwealth Bank of Australia, the State Bank of South Australia, or any other body corporate or company ”.

Amendment of principal Act, s. 166—
Statements as to remuneration of directors.

6. Section 166 of the principal Act is amended by striking out the words “ seven days ” in the third line of subsection (1) thereof, and inserting in lieu thereof the words “ one month ”.

Amendment of principal Act, s. 313—
Accounts of receivers and managers.

7. Section 313 of the principal Act is amended by striking out the word “ liquidator ” in lines 2 and 5 of subsection (3) thereof, and inserting in lieu of that word in each case the words “ receiver or manager.”

Amendment of principal Act, s. 360—

8. Section 360 of the principal Act is amended by striking out paragraph II. thereof.

Statement of name of company and country of incorporation.

Enactment of s. 360A—

Restriction on foreign company carrying on business under name of friendly society.
Of. 1738, 1926, s. 4.

9. Part XII. of the principal Act is amended by inserting therein the following section :—

360A. (1) No company to which this Part applies and the name of which is identical with that of any friendly society mentioned in the Second Schedule to the Friendly Societies Act, 1919, or the name of which so nearly resembles the name of any such friendly society as to be calculated to deceive shall carry on business within the State.

(2) Any company carrying on business in contravention of this section shall be guilty of an offence and liable to a penalty not exceeding twenty pounds for every day on which it so carries on business.

(3) Any attorney of such company or other person who on behalf of such company wilfully and knowingly assists in carrying on business in contravention of this section shall be guilty of an offence and liable to a penalty not exceeding five pounds for every day on which he so assists.

Amendment of principal Act, s. 371—
Licensing of auditors and liquidators.

10. Section 371 of the principal Act is amended by striking out the word “ Board ” in the last line of subsection (12) thereof and inserting in lieu of that word the word “ court ”.

Amendment of principal Act, s. 402—
Superannuation and pension schemes of companies.

11. Section 402 of the principal Act is amended by inserting at the end thereof the following subsection, the previous part of the section being read as subsection (1) :—

(2) This section shall not apply to any fund or scheme the trusts or provisions of which have been treated as null and void by the settlor prior to the commencement of this

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Act on the ground that such fund or scheme was a perpetuity, or contravened the rule against perpetuities or tended to a perpetuity, nor to any fund or scheme in respect of which legal proceedings have been commenced by the settlor prior to the commencement of this Act for the purpose of avoiding the trusts or provisions of such fund or scheme on the ground that they are a perpetuity or contravene the rule against perpetuities or tend to a perpetuity: Provided that in any case to which this subsection applies it shall be the duty of any persons holding any funds or property for the purposes of the said fund or scheme to apply such funds or property in or towards the establishment and carrying on of some other fund or scheme with substantially similar objects and substantially the same class of beneficiaries.

12. This Act shall come into operation on the day proclaimed for the coming into operation of the provisions of the principal Act, other than Part XIII. thereof. Commencement of this Act.

13. The Companies Amendment (Names) Act, 1926, is repealed. Repeal of 1738, 1926.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Deputy Governor.