

COMPANIES ACT 1986

(Chapter 45)

Arrangement of Sections

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Received Royal Assent: 10 October 1986

Passed: 21 October 1986

AN ACT

to make new provision in relation to the capacity, rights, powers and privileges of companies; to make miscellaneous amendments to the Companies Acts 1931 to 1982; and for connected purposes.

PART I

CAPACITY, POWERS AND MEMORANDUM AND ARTICLES

1 Application

- (1) This Part shall apply-
 - (a) subject to subsection (6), to every company incorporated after the commencement of this Part; and
 - (b) to any other company which passes a special resolution pursuant to subsection (3).
- (2) Except as provided by this section, this Part shall not apply to any company incorporated before the commencement of this Part.
- (3) A company to which this Part does not apply may, by special resolution-
 - (a) resolve that this Part shall apply to it; and
 - (b) alter the provisions of its memorandum and articles so that they comply with this

Part.

(4) Where the provisions of a company's memorandum are altered pursuant to subsection (3), subsections (2) to (13) of section 5 of the Companies Act 1931 (in this Act referred to as 'the 1931 Act') shall apply with the necessary modifications to such alteration as they apply to an alteration to the objects of a company under subsection (1) of that section.

(5) Sections 2, 5, 8 and 11 of, and Schedule 1 to, the 1931 Act shall not apply to a company to which this Part applies.

(6) This Part shall not apply to a company incorporated after the commencement of this Part if the memorandum and articles of that company were, before such commencement, delivered to the Financial Supervision Commission pursuant to section 12 of the 1931 Act. [Subs (6) amended by Companies (Transfer of Functions) Act 2000 Sch 1.]

2 Capacity, powers etc

(1) A company has the capacity and, subject to this Act, the rights, powers and privileges of an individual.

(2) Without prejudice to the generality of subsection (1), a company may-

(a) issue and allot fully or partly paid shares in the company;

(b) issue debentures of the company;

(c) distribute any of the property of the company among the members, in kind or otherwise;

(d) give security by charging uncalled capital; (e) grant a floating charge on the undertaking or property of the company;

(f) procure the company to be registered or recognised as a body corporate in any place outside the Island;

(g) make provision in connection with the cessation of the whole or part of the business of the company, or of any subsidiary of the company, for the benefit of employees or former employees of the company or of a subsidiary of the company or for the dependants of such employees or former employees; and

(h) do any other act that it is authorised to do by any statutory provision or rule of law.

(3) The power conferred by subsection (2)(g) may be exercised whether or not it is in the best interests of the company.

(4) This section does not authorise a company to carry on any business or to do any act in breach of any statutory provision.

3 Restrictions of rights, powers and privileges

A company shall not exercise any right, power or privilege that it is restricted by its memorandum or articles from exercising, nor shall a company exercise any of its rights, powers and privileges in a manner contrary to its memorandum and articles.

4 Validity of acts

(1) Nothing done by a company and no conveyance or transfer of any property, whether real or personal, to or by a company shall be invalid, void, or unenforceable by reason only of the fact that the company was without capacity or power to do it, or to execute, or give, or take such conveyance or transfer.

(2) Nothing in subsection (1) shall apply-

(a) in any proceedings against the company by any member of the company, or where the company has issued a debenture or debentures secured by a floating charge over all or any of the company's undertaking or property, by the holder of any of those debentures or the trustee for the holder of those debentures-

(i) to prevent the doing of any act, or the conveyance or transfer of any property to or by the company on the ground that the company is without capacity or power to do the thing or to execute or take such conveyance or transfer; or

(ii) to obtain any other relief on the ground that the company was without capacity or power to do such thing, or to execute or take such conveyance; or

(b) in any proceedings by the company or any member of the company against any

officer or former officer of the company as a result of any thing done by the company or the conveyance or transfer of any property to or by the company on the ground that the company was without capacity or power to do such thing or to execute, give, or take such conveyance or transfer.

(3) In any proceedings to which subsection (2)(a)(i) applies to prevent the doing of any act, or the conveyance or transfer of any property by or to the company pursuant to any contract to which the company is a party, the Court may on the application of any party to the contract (including the company), in addition to making any order restraining or preventing the company from performing the contract, make an order granting such relief as the Court thinks just in respect of any loss or damage which may be sustained as a result of the company being prevented from performing the contract.

(4) Nothing in subsection (3) shall authorise the granting of relief in respect of the loss of anticipated or future profits.

5 Requirements with respect to memorandum

(1) The form of the memorandum of association of a company shall be in accordance with the forms prescribed by regulations made by the Financial Supervision Commission or as near to such forms as circumstances permit.

[Subs (1) amended by Companies (Transfer of Functions) Act 2000 Sch 2.]

(2) The memorandum shall state-

(a) the name of the company, with 'Limited' as the last word of the name in the case of a company limited by shares or by guarantee; and

(b) whether the company is a private company or a public company;

(c) that all the requirements of this Act in respect of matters relating to registration and of matters precedent and incidental thereto have been complied with.

(3) The memorandum of a company limited by shares or by guarantee shall also state that the liability of its members is limited.

(4) The memorandum of a company limited by guarantee shall also state that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within 1 year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(5) In the case of a company having a share capital-

(a) the memorandum shall also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount;

(b) the memorandum shall also state the number of shares each subscriber takes;

(c) no subscriber of the memorandum may take less than one share.

(6) The memorandum of a company shall not contain any provision with respect to the rights, powers and privileges of the company except a provision that restricts or prohibits the exercise by the company of any of the rights, powers and privileges referred to in section 2(2).

(7) Notwithstanding subsection (6), where a charity is a company, its memorandum of association shall state the charitable objects of the company and accordingly the capacity, rights, powers and privileges of the company shall be exercised only for the purpose of giving effect to those objects.

[Subs (7) added by Companies Act 1992 Sch 5.]

6 Amendment of memorandum

(1) A company may, by special resolution, alter the memorandum of the company by altering, omitting, or inserting any provision that restricts or prohibits the exercise by the company of any of the rights, powers and privileges referred to in section 2(2) or by altering any statement made under section 5(2)(b).

[Subs (1) amended by Statute Law Revision Act 1989 Sch 1.]

(2) Where a company passes a resolution pursuant to subsection (1), it shall within 1 month of the passing of the resolution deliver to the Financial Supervision Commission a copy of its memorandum as altered.

[Subs (2) amended by Companies (Transfer of Functions) Act 2000 Sch 1.]

(3) If default is made in complying with subsection (2), the company and every officer of the company who is in default shall be liable to a default fine.

(4) This section shall not prejudice sections 19, 50 and 62 of the 1931 Act.

7 Tables A, C, D and E

(1) Tables A, C, D and E are as prescribed by regulations made by the Financial Supervision Commission.

[Subs (1) amended by Companies (Transfer of Functions) Act 2000 Sch 2.]

(2) In the case of a company limited by shares, if articles are not registered or, if articles are registered, in so far as they do not exclude or modify Table A, that Table (so far as applicable, and as in force at the date of the company's registration) constitutes the company's articles, in the same manner and to the same extent as if articles in the form of that Table had been duly registered.

(3) If in consequence of regulations under this section Table A is altered or revoked, the alteration or revocation does not affect a company registered before the alteration or revocation takes effect.

(4) The form of the articles of association of-

(a) a company limited by guarantee and not having a share capital;

(b) a company limited by guarantee and having a share capital;

(c) an unlimited company having a share capital,

shall be respectively in accordance with Tables C, D or E, or as near to that form as the circumstances permit.

(5) Section 5(6) shall apply to a company's articles as it applies to its memorandum.

(6) In the application of the 1931 Act to a company to which this Part applies, any reference to Table A, C, D or E shall be construed as a reference to that table as prescribed under this section.

8 Regulations

Regulations under this Part shall be laid before Tynwald.

PART II

MISCELLANEOUS AMENDMENTS OF THE COMPANIES ACTS 1931 TO 1982

9 (1) to (5) [Amend sections 1, 28, 114, 162 and 164 respectively of the Companies Act 1931.]

(6) [Amends Schedule 1 to the Companies Act 1931.]

10 to 12 [Amend sections 15, 18 and 19 respectively of the Companies Act 1931.]

13 (1) to (3) [Amend sections 26, 27 and 110 respectively of the Companies Act 1931.]

14 to 16 [Amend sections 46A, 48 and 63 respectively of the Companies Act 1931.]

17 [Inserts section 94A in the Companies Act 1931.]

18 (1)(a)

[Para (a) repealed by Companies Act 1992 Sch 7.]

(b) to (d) [Amend section 107 of the Companies Act 1931.]

(2) to (4) [Amend sections 108 and 143 respectively of the Companies Act 1931.]

(5) [Repeals Schedule 6 to the Companies Act 1931.]

(6) [Repeals sections 14 and 21 of the Companies Act 1974.]

19, 20, 22 and 23 [Amend sections 134, 141, 163 and 164 respectively of the Companies Act 1931.]

[S 21 repealed by Companies, etc. (Amendments) Act 2003 Sch 2 as of 1st March 2004]

24 (1) and (2) [Amend sections 215 and 218 respectively of the Companies Act 1931.]

25 [Amends section 273 of the Companies Act 1931.]

26.....

[S 26 repealed by Companies, etc. (Amendments) Act 2003 Sch 2 as of 1st April 2004]

27 (1) [Amends section 274 of the Companies Act 1931.]

(2) [Inserts sections 274A, 274B and 274C in the Companies Act 1931.]. **28 (1) [Inserts sections 283B and 283C in the Companies Act 1931.]**

(2) This section shall not have effect in respect of any document submitted to the registrar before the day appointed for the commencement of this section.

29 [Repeals section 316 of the Companies Act 1931.]

30 [Inserts section 319A in the Companies Act 1931.]

31 (1) [Amends section 325 of the Companies Act 1931.]

(2) [Amends section 47 of the Partnership Act 1909.]

(3) This section shall not have effect in relation to any proceedings commenced or instituted before the commencement of this section.

32

[S 32 repealed by Summary Jurisdiction Act 1989 Sch 6.]

33 and 34 [Amend sections 14 and 19 respectively of the Companies Act 1982.]

[See the Companies Act 1982, s 14.]

35 (a) [Amends Schedule 1 to the Companies Act 1982.]

(b)

[Para (b) repealed by Companies Act 1992 Sch. 7.]

36 Minor and consequential amendments and corrections

(1) The enactments referred to in Schedule 1 are amended in accordance with that Schedule.

(2)

[Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.]

PART III

SUPPLEMENTAL

37 Interpretation

In this Act-

'the 1931 Act' has the meaning given by section 1(4);

'the 1974 Act' has the meaning given by section 18(6);

'the 1982 Act' has the meaning given by section 33. **38 Short title, construction and commencement**

(1) This Act may be cited as the Companies Act 1986 and shall be construed as one with the Companies Acts 1931 to 1982 and those Acts and this Act may be cited together as the Companies Acts 1931 to 1986.

(2) This Act shall come into operation on such day or days as the Treasury may by order appoint and different days may be so appointed for different provisions and different purposes.

[ADO (ss 9, 11 to 17, 18(1)(a), (b), (d), 18(2), 18(3), 19 to 38, Sch 1, Sch 2 (except the entries relating to s 29 of Companies Act 1982 and to the Financial Supervision Act 1984) 1/1/1987 (GC392/86); (remainder of s 18) 1/4/1987 (GC24/87); (remainder of Act) 1/6/1988 (GC73/88).]

Schedule 1

Minor and consequential amendments and corrections

[Sch 1 amended by Companies (Transfer of Functions) Act 2000 Sch 3, and amends the following Acts - Companies Act 1931 q.v.

Companies Act 1982 q.v.]

Schedule 2

[Sch 2 repealed by Statute Law Revision Act 1992 Sch 2.]