

REGISTRATION OF JOINT STOCK COMPANIES.

ACT No. XLIII. OF 1850.

[Passed on the 27th December, 1850.]

1. Defines the partnerships entitled to registration, viz., partnerships by deed whose joint stock is transferable in shares, without consent of all the partners, also literary and other specified societies not carrying on business for profit.

2, 3. Supreme Courts to order Registration, on Petition, and (3) Petition to be filed in Court with deed and list of Directors, Shareholders, &c. and petition to contain particulars specified in S. 3 and S. 6.

4, 5. Meeting of Shareholders to be held for purpose of resolving on registration, and (5) resolution to be passed by half the Shareholders present owning specified proportion of shares.

6. See ante 3.

7. On Registration of Company, Directors, &c. indebted to Company to cease to be Directors.

8. Prescribes general regulations for registered Companies independently of their deed; 1st, for holding general meetings; 2nd, for holding special meetings; 3rd, prohibits Companies purchasing or taking in pledge their own shares; 4th, prohibits loans, &c. to Directors, &c.; 5th, prohibits Directors, &c. being security to the Company; 6th, for auditing-accounts; 7th, for verifying and publishing audit.

9. Supreme Court may enforce duties of Directors, Secretary, &c.

10, 11, 12. Memorial to be filed annually, setting forth names of partners and other specified particulars; and (11) when several persons are interested in

share, names, &c. of all to be particularized; and (12) memorial to be signed, and verified by affidavit, &c.

13, 14, 15. Office copy of registered deed memorial under seal of Court, to be evidence and (14) Record Keeper of Supreme Court to allow inspection and furnish copies, &c. (15) and fee to be paid for registration, inspection, copies &c.

16. Sales and transfers of shares to be effected by form in Schedule.

17. No Shareholder to sell any share on which any call is unpaid.

18, 19. Transferree of share may require a memorial of transfer to be filed, and Supreme Court may order memorial, &c. and (19) no transfer to be complete, &c. until memorial is filed, &c.

20. Supreme Court may order memorial to be corrected, &c.

21. Directors may close the Register of transfers for a period.

22. Company not bound to see to execution of trusts, &c.

23, 24. Registered Company shall sue and be sued by name of the Company. Writs, &c. how to be served; and (24) how property of Company may be described in indictment.

25, 26, 27. Company to be nonsuited unless it is proved that suit is instituted by specified authority: but (26) suits not to abate, &c. by changes in the constituent members of the Company; and (27) suit not to be affected by plaintiff or defendant being a partner of the Company.

28. All unpaid capital to be a debt to the Company, &c.

29, 30, 31, 32. Registered Company committing an Act of Insolvency to be liable to Insolvent Court, &c. but (30) adjudication of insolvency against the Company not to be deemed insolvency of individual members; but (31) to pass property of the Company to the assignee; who (32) may compromise debts, &c.

33. Directors if unable to meet engagements may at a special meeting declare such inability, and publish such declaration which shall be deemed an Act of forfeiture, &c. for specified purpose.

34, 35. Registered Company to be deemed to commit act of forfeiture by not satisfying judgment and execution, and execution creditor and other creditors as particularized may petition Insolvent Court against the Company, &c. whereupon (35) Insolvent Court shall make the common vesting order, &c.

36. Defines duty of Directors in case of insolvency.

37. After adjudication of forfeiture Shareholders not to be liable individually except on their own personal contract.

38. After adjudication, Official Assignee to make estimate of sum required to pay debts of Company, and same to be raised by contribution of Shareholders, to be assessed by Official Assignee, and non-payment of assessment to be an Act of Insolvency of defaulting Shareholder, on which petition may be presented, &c.

39. Shareholders in the last memorial to be first called on to contribute and afterwards specified former shareholders.

40. In fixing sum to be raised, allowance may be made for unrealized assets.

41. Assessment not to be deemed erroneous for inequality, if necessary.

42. In what manner assets remaining after payment of debts shall be distributed among the Shareholders.

43. *In case of Company being insolvent before it is registered 3 years, all who are Shareholders within the 3 years liable together with registered Shareholders.*

44, 45. *Authorizes Supreme Court to give aid to wind up affairs of Company at instance of Official Assignee; and (45) in like manner to give relief to Shareholders.*

46. *Official Assignee to rank as creditor of Insolvent Shareholder for debt, &c. to Company.*

47. *On adjudication of forfeiture, Company to lose its privileges, and partnership to be dissolved.*

Schedule.

An Act for the Regulation of Registered Joint Stock Companies.

For the Regulation of Joint Stock Companies Registered under this Act, it is enacted as follows :

I. Every unincorporated Company of partners, associated under a deed containing a provision, that the shares in the stock or business of the said Company are transferable without the consent of all the partners, and also every Company established for some literary, scientific or charitable purpose, which does not carry on any business for the pecuniary benefit of any of the proprietors or shareholders, shall be entitled to registration under this Act.

II. The Supreme Courts of Judicature at Calcutta, Madras, or Bombay may, on such petition as is hereinafter mentioned of any persons desiring to register the Company to which they belong, order the registration of such Company; and thereupon such Company shall be duly registered in the said Court, and deemed a registered Company within the meaning of this Act.

III. Every petition for the registration of any Company under this Act shall be filed in the Court to which it is presented, with the deed, or a copy of the deed of partnership of the Company, and a list of the Directors and Shareholders of the Company, severally verified by affidavit of the Secretary, or Manager, or principal or other servant of the Company, intended to be a Registered Officer of the Company within the Presidency in which the petitioners shall apply for registration; and such petition shall set forth the following particulars, that is to say:

First.—The names and additions of all those who are at that time partners of the Company, and their usual places of residence; and, when any Company, which has carried on its business before

registration, shall be admitted to the privileges of this Act, a separate memorial of the names and additions and last known place of abode of all persons who, within three years next before the presentation of the petition, were partners thereof.

Second.—The style under which the Company is to carry on its business.

Third.—The names of the principal places, within the Presidency in which they seek to be registered, where the business is to be carried on.

Fourth.—The amount of capital stock and of any proposed addition thereto, and if consisting of money how much is paid up, and if other than money, the nature of such capital stock, and in all cases how invested, and if separate provision is made for working capital, the amount thereof, and how much of it is paid up.

Fifth.—The number of shares into which the capital stock has been, or is to be divided.

IV. Before the registration of any Company, which has carried on its business before registration under a deed of partnership, not containing any provision for registration of the Company under this Act, the Directors shall call a special meeting of the Shareholders for the purpose of resolving that the Company shall be registered under this Act, to be held at a place and time to be mentioned in the notice of meeting; and such notice, beside being given to the partners in the manner provided in the deed of partnership for notice of special meetings, shall be published in the *Government Gazette*, and in at least one other newspaper circulating within the Presidency, and the time of holding such meeting shall be not sooner than three months and not later than four months after the first of such publications.

V. One-half in number of the Shareholders assembled either personally, or by their lawfully constituted attorneys at such meeting, owning at least one-half of the whole number of shares owned by all the Shareholders so present, may resolve that the Company shall be registered under this Act, and such resolution so carried shall be binding on the whole Company.

VI. The petition for registration in such case shall contain, beside the other particulars herein mentioned, statements of the notice and publication thereof, of the holding of the meeting, and

of the several numbers of Shareholders and shares held by them collectively, who were present at the meeting, and who voted in favor of the resolution respectively, and shall state that the petition is presented upon such resolution.

VII. No Company shall be disqualified for registration by reason of any outstanding loan to any Director, or by reason of any Director being a surety, or under any other pecuniary engagement to the Company: but any Director having such loan or being such surety or under such engagement shall, by the fact of the registration of the Company, cease to be a Director, unless the loan or other engagement be such as is authorized by this Act.

VIII. Every registered Company shall be subject to the following regulations, notwithstanding any provisions in their deed of partnership varying therefrom; and the Supreme Court, in which the Company shall be registered, shall have authority, on the petition of any Shareholder, to enforce the same, and from time to time, to make any order or orders in respect of any breach or neglect thereof as to such Court shall seem meet.

First.—Every registered Company shall hold one or more ordinary general meetings of the Company in every year, at such times and places as are appointed by the deed of partnership, or in default thereof, as the Supreme Court, in which such Company is registered, shall in the order for registration appoint, subject to variation by any subsequent order or orders of such Court.

Second.—Every registered Company shall, from time to time, hold an extraordinary general meeting whenever seven Shareholders, or any greater number may require it, by notice in writing under their hands to be delivered to a Registered Officer of the Company, or, if he cannot be found, to any other servant of the Company, at one of their usual places of business.

Third.—No registered Company shall purchase its own Shares or make any loan of money or securities for money to any person or persons, on the security of a share or shares in the partnership or business; and every such purchase or loan shall be a breach of trust within the meaning of all laws now in force, or hereafter to be in force relating to breaches of trust by agents or trustees misappropriating money or property.

and memorial, and for allowing inspection and furnishing copies thereof, or of any part thereof, as the Judges of the Supreme Court, with the approval of the Governor or Governor in Council, from time to time, shall establish.

XVI. Subject to the provisions of the deed of partnership, every Shareholder in any such Registered Company may sell and transfer all or any of his shares therein by a deed according to the form in the Schedule annexed to this Act, or to the like effect, and the same, when duly executed, shall be delivered to a Registered Officer, who shall make an entry thereof in a book to be called the Register of Transfers, and shall endorse such entry on the deed of transfer, and deliver an acknowledgment of the receipt thereof to the purchaser, for which entry and endorsement the Company shall be entitled to have a fee not exceeding One Rupee; and until such transfer is so entered and endorsed the purchaser of the share shall not be entitled to receive any share of the profits of the business, or to vote in respect of such share.

XVII. No Shareholder shall be entitled to transfer any share until he has paid all calls at that time due on every share held by him.

XVIII. On the transfer of any share in a Registered Company being executed and notified in the manner required by the Deed of the Company and this Act, the party making or the party accepting such transfer may require a memorial thereof to be made forthwith, and filed with the memorial of the names of Shareholders of the Company; and in case such memorial shall not be made and filed within one month after such requisition, the Supreme Court shall on the petition of either of the said parties and on notice being given to the Directors of the Company, order such memorial to be made and filed, in case the Court shall be satisfied of the validity of such transfer; and every such memorial of transfer shall be taken henceforth as part of the last general memorial.

XIX. No transfer shall be deemed complete, nor shall any Shareholder be discharged from any liability by the transfer of any share, until the memorial of such transfer shall have been filed as aforesaid, or until the purchaser has been substituted as a partner instead of the seller in one of the general half-yearly memorials, in respect of the share or shares so transferred; and

no person shall be liable as a Shareholder by reason merely of having accepted such transfer, until such memorial of the transfer shall be filed, or until he is entered as a partner in one of the general half-yearly memorials.

XX. The Supreme Court in which any Company is registered may, on petition and on notice being given to the Directors, and to every other person to whom it shall appear to the Court that notice ought to be given, order any memorial filed under this Act to be corrected, in case of any material error of omission or otherwise, either in the lists of Shareholders or any other respect whatever.

XXI. The Directors may close the Register of Transfers for a time not exceeding fourteen days before the payment of any dividend, and may fix a day for closing the same, of which seven days' notice shall be given in the *Government Gazette*.

XXII. The Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any share is subject; and the receipt of the person in whose name any share stands in the books of the Company, or in the case of a minor, idiot, or lunatic, the receipt of the guardian or committee, or where the share stands in more than one name, the receipt of the person, whose name stands first, shall be a sufficient discharge to the Company for any dividend or other sum of money payable on account of such share, whether or not the Company had notice of any such trust; and the Company shall not be bound to see to the application of any money paid on such receipt.

XXIII. Every such registered Company shall sue and be sued by the registered name of the Company, as if it were an incorporated Company, and in no other manner; and service of any writ, order, or other process or notice on a Registered Officer of the said Company, at one of their usual places of business, or, if he cannot be found, in such manner as the Supreme Court in which such Company is registered shall order and direct, shall be good service on such Company.

XXIV. In any indictment or information for any theft or embezzlement of the monies or goods of any such Registered Company, or for any other offence committed against them or their property, or with intent to defraud or injure them, and in

any proceeding in which it may be necessary to name them, they may be described by the registered name of the Company.

XXV. In any suit brought or proceeded with in the name of any such Registered Company, the plaintiffs shall be liable to be nonsuited unless it is proved on their part that the suit is brought or proceeded with by direction of one or more of the partners appointed at a general meeting to be Directors of the Company, or by the direction of some person or persons having authority from the Directors to bring suits on behalf of the Company; and such proof may be given either by filing a warrant to sue signed by such Director or person, and supported by affidavit, or in such other manner as shall be consistent with the practice of the Court.

XXVI. No such suit, indictment, information, or other proceeding shall abate or be prejudiced by any change of the persons constituting the partnership, or of the Directors, or of the person having such authority.

XXVII. No suit by or against the Company shall be in anywise affected by the defendant or plaintiff therein being or having been a Shareholder of the Company; but any such Shareholder, either alone or jointly with any other person or persons as against the Company, or the Company as against any such Shareholder, either alone or jointly with any other person or persons, shall have the same right of action, remedy, and execution, in respect of any claim whatever, as the Shareholder or Company would have had, if the Shareholder had been a stranger.

XXVIII. All unpaid capital, or money due on account of the Capital Stock of the Company, shall be deemed a debt due to the Company, and shall be recoverable as such by the description of money due by the defendant, on account of a share in the business of the Company.

XXIX. A Registered Company, which shall commit any act which is hereby deemed an act of forfeiture, shall be liable to the jurisdiction of the Court for Relief of Insolvent Debtors, and a petition to the said Court in the case of such Company shall be prosecuted in the same manner as petitions in the case of Insolvent Debtors: and in case of an adjudication of forfeiture the law and practice of the said Court, with such alterations of the practice as, from time to time, shall seem to the Court necessary,

shall be extended to the case of such Company, as in the case of an adjudication of insolvency in the case of an Insolvent Debtor.

XXX. An adjudication of forfeiture against any such Company shall not be deemed an act of insolvency of the individual members of such Company.

XXXI. An adjudication of forfeiture against such Company shall convey to the Assignee or Assignees appointed to the whole of the real and personal property of the said Company, and all debts, causes of suit, and possibilities of interest, with the like power to sue either at Law or in Equity, as fully and effectually as an adjudication of insolvency against any individual could convey the same by any of the laws now in force or hereafter to be in force affecting insolvents.

XXXII. Whenever an adjudication of forfeiture shall have issued against any such Company, the Assignee or Assignees, from time to time, may compromise any debts or claims belonging to the said Company, and may grant discharges to the parties to such compromises.

XXXIII. Whenever the Directors of any Registered Company shall be unable to meet the engagements of the Company, they shall at a special meeting of the Directors convened for that purpose, and by such a number and majority of them as would be sufficient for any ordinary business of the Company, declare such inability by a resolution, which being signed by the Directors by whose votes it has been carried, shall be forthwith published in the *Government Gazette* of the Presidency; and for two calendar months after the publication of such resolution, but not later, such resolution shall be deemed an act of forfeiture of their privileges for the sole purpose, nevertheless, of supporting a petition to the Court for Relief of Insolvent Debtors in case a petition shall be filed within two months after the date of the publication thereof as aforesaid, but not afterwards.

XXXIV. Any Registered Company which shall not within two months after judgment and the issue of a writ of execution thereof, satisfy such judgment, shall be deemed to have committed an act of forfeiture, and thereupon the execution creditor, or any creditor to whom such Company shall be indebted to the amount of Company's Rupees Five Hundred, or any two credi-

tors to whom such Company shall be indebted to the amount of Company's Rupees Seven Hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors at the Presidency within which such Company is registered, stating the amount due to such creditor or creditors, and the registry and act of forfeiture of such Company, and praying such Court would proceed as if such Company or the Shareholders thereof had petitioned such Court for relief under the laws in force for Relief of Insolvent Debtors; whereupon the Court shall enquire into the truth of such petition, and if such Court shall be satisfied thereof, such Court shall adjudge the same to be true, and that such Company has committed an act of forfeiture, and proceed thereon pursuant to the provisions of the Act for the Relief of Insolvent Debtors in India, and of this Act.

XXXV. Upon the filing of any petition to the Court for Relief of Insolvent Debtors in the case of any Registered Company, whether by a Shareholder or by a Creditor, the Court shall make the like vesting order for the purpose of vesting all the real and personal estate of the Company in the Official Assignee, and such other orders ancillary thereto as the Court might make in case of an individual insolvent debtor, and all the powers and authorities of the said Court, and all the laws relating to insolvent debtors shall, so far as the circumstances of the case admit, be extended to all such Registered Companies.

XXXVI. Whenever there shall be an adjudication of forfeiture against any Registered Company, the Directors of such Company at the time of filing the petition shall be subject to the orders of the said Court for the Relief of Insolvent Debtors, and it shall be their duty individually or collectively to prepare such balance sheet and other accounts as the Court may deem necessary, and to assist the Official Assignee in the examination of and closing all the affairs of the Company; and every Director and person who shall at any time have been a Director of the Company shall be liable to be examined upon oath, and to make full and true discovery of the estate and effects, past and present, and business, affairs, and interests of the Company, either orally or upon written interrogatories, as the Court may order.

XXXVII. Upon the adjudication of forfeiture against any Registered Company, the claims of any creditor of the Company against the Shareholders shall not be enforced otherwise than under this Act, except in respect of any special contract, or any debt or liability contracted by any Shareholder in his individual capacity, otherwise than by taking a share in the business of the Company.

XXXVIII. As soon after an adjudication of forfeiture against any Company as the Official Assignee can make an approximate estimate of the amount of the debts and other claims against the Company, or of any certain portion thereof, the said Court, on the application of the Official Assignee, shall order such sum to be raised by contribution of the Shareholders as may appear to the said Court necessary for the satisfaction of such debts and claims; and may from time to time order such further sum to be raised in like manner as may appear necessary: and upon obtaining such order the Official Assignee shall assess the said sum ratably amongst the Shareholders according to the number of shares held by them respectively, and immediately proceed to collect the same; and monthly or oftener shall report defaulters to the said Court together with the amounts at which they were assessed respectively, and thereupon the said Court, if satisfied that the said assessment is just, shall order the payment of such assessment within such time and upon such notice or demand by advertisements or otherwise, as the Court may see fit; and non-payment thereof within the time ordered by the Court shall be an act of insolvency of the defaulting Shareholders; and the said Assignee, or any person being a creditor of the said Company to the amount of Company's Rupees Five Hundred, or any two creditors to whom such Company shall be indebted to the amount of Company's Rupees Seven Hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors of the Presidency within which the said Company is registered, stating such act of insolvency, and praying that such defaulting Shareholder may be adjudged to have committed an act of insolvency, and upon such petition being duly verified, the Court shall be empowered to adjudge that such defaulting Shareholder has committed an act of

insolvency, and the Court for Relief of Insolvent Debtors in the Presidency in which the defaulter is resident may proceed thereon according to the provisions of the Act for the Relief of Insolvent Debtors in India.

XXXIX. The Shareholders of untransferred shares whose names are in the last general memorial, including those (if any) who have been subsequently returned as Shareholders of the Company, shall be liable and be called upon in the first instance to satisfy the debts of the Company; but in case it shall appear to the said Court that full satisfaction cannot, within such time as may appear reasonable to the Court, be otherwise obtained, such other persons as at any time within three years next before the adjudication of forfeiture shall have been returned in any memorial as Shareholders of the Company shall be liable to contribute to such amount collectively as the Court may order; and, upon every order for contribution from former Shareholders, the Official Assignee shall proceed as hereinbefore prescribed in the case of present Shareholders.

XL. In fixing the sum to be raised from time to time by assessment of the Shareholders, it shall be in the discretion of the Court to make such allowance for unrealized assets of the said Company, as the Court may deem just.

XLI. No such assessment shall be deemed erroneous or set aside merely by reason of its being in excess of other assessment ratably considered, if the same be needed for satisfaction of any creditor of the said Company, and any such assessment may be reduced, when expedient, by order of the Court.

XLII. If on realizing the assets of the Company a balance shall remain, after payment of the debts and other claims against the Company, the said Court may order the repayment out of such balance, first, of such sums or ratable parts thereof as have been paid by any Shareholders not liable in the first instance to satisfy the debts of the Company; and secondly, of such sums or ratable parts thereof as have been paid by any other Shareholders in excess of their ratable liability, according to the number of their shares, regard being had to the number of other assessed Shareholders; and lastly, if such a balance shall not thereby be exhausted, the said Court may order the distribution of the remainder thereof among the Shareholders by the Official Assignee

upon a scheme or plan to be submitted to and approved by the said Court, or may order the same to be paid to the Accountant General of the said Court to the credit of the said Company, to abide such proceedings as any parties interested therein may take at Law or in Equity: and any order of the said Court for the disbursement of money shall be a sufficient authority to the said Official Assignee to protect him against all claims in respect of such disbursement by any Shareholder or Creditor.

XLIII. If any Registered Company which carried on its business before registration shall incur an adjudication of forfeiture before it has been registered for three years, such persons as are not registered Shareholders but were Co-partners or Shareholders thereof at any time before the registration of the Company, but within three years before the filing of the petition for relief, shall be liable to contribute to the debts of the Company in like manner as if they were on the first memorial of the Shareholders of the Company.

XLIV. Whenever it shall appear to the Court for Relief of Insolvent Debtors that the aid of a Court of Equity will be necessary for closing the affairs of any Registered Company, against which an adjudication of forfeiture has been made, the said Court may order the Official or other Assignees to take proceedings in the Supreme Court in Equity, by bill, or by petition for the like relief as might be had by bill, and the said Supreme Court shall have power on such petition to make such original and subsequent orders as upon a bill filed, and such orders shall have the same effect and be executed in the same manner as decretal orders.

XLV. The said Supreme Court may likewise on petition of any Shareholder having any claim against any other Shareholder, in respect of the affairs of the Company, make such order as it may deem just for settling such claim between such Shareholders.

XLVI. Whenever any Shareholder in a Registered Company, which shall have been adjudged to have incurred forfeiture, shall be adjudged an insolvent, either on his own petition, or under the provisions aforesaid, or otherwise, the Assignee or Assignees of such Registered Company shall be entitled, from time to time, to rank as a creditor on the estate of such insolvent, for such ratable contributions, as the Court for the Relief of Insolvent Debtors shall, from time to time, appoint to be paid by such insolvent Shareholder.

XLVII. After the affairs of any such Registered Company against which there has been an adjudication of forfeiture are closed under this Act, the Company shall forfeit all its privileges under this Act, and the partnership shall be dissolved.

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SCHEDULE.

I — of — in consideration of — paid to me by — of — do hereby transfer to the said — the share (or shares) numbered — in the business called The — to hold unto the said — his [or her] Executors, Administrators and Assigns, subject to the Conditions of the Partnership Deed of the — Company, registered in the Supreme Court of Judicature at —, and the other Conditions in which I held the same: And I the said — do hereby agree to take the said share (or shares) subject to the same Conditions: As witness our hands and Seals, the — day of — in the year —

Witness

A. B.

L. S.

C. D.

L. S.