

FOREIGN COMPANIES ORDINANCE 1926-1935.*

An Ordinance relating to Foreign Companies.

Short title.
Short title
amended:
No. 17, 1938,
s. 4.
Commence-
ment.

1. This Ordinance may be cited as the *Foreign Companies Ordinance 1926-1935*.*

2. This Ordinance shall commence on a date to be fixed by the Minister by notice in the *Gazette*.†

Definitions.

3. In this Ordinance, unless the contrary intention appears—

“British company” means a company which is incorporated in some part of the British Dominions other than the Northern Territory and which is under British ownership or control;

“Certified” means certified as prescribed;

“Foreign company” means a company which is incorporated outside the Northern Territory;

“Registered” means registered in pursuance of this Ordinance.

Application of
State Acts.

4. After the commencement of this Ordinance the Acts of the State of South Australia which are set forth in the Schedule to this Ordinance shall, to the extent therein mentioned, cease to apply to the Northern Territory.

Foreign
companies to
be registered.

5.—(1.) No foreign company shall carry on operations in the Northern Territory unless it is registered.

(2.) Any foreign company which carries on operations in the Northern Territory in contravention of this section shall be guilty of an offence against this Ordinance.

Penalty: One hundred pounds, or, in the case of a continuing offence, Five pounds for each day during which the company carries on operations in the Northern Territory.

* The *Foreign Companies Ordinance 1926-1935* comprises the *Foreign Companies Ordinance 1926* as amended. Particulars of the Principal Ordinance and of the amending Ordinance are set out in the following table:—

Ordinance.	Number and Year.	Date notified in Commonwealth Gazette.	Date of Commencement.
<i>Foreign Companies Ordinance 1926</i>	No. 13, 1926	3rd June, 1926	(See Note below)
<i>Foreign Companies Ordinance 1935</i>	No. 8, 1935	27th June, 1935	

Note.—No date for the commencement of the *Foreign Companies Ordinance 1926* had been fixed up to 1st January, 1961. Section 2 of the *Foreign Companies Ordinance 1935* reads as follows:—

“2. This Ordinance shall commence on the same date as the Principal Ordinance.”.

6.—(1.) No lease or licence under any law of the Northern Territory shall be granted to any foreign company unless it is registered in accordance with the provisions of this Ordinance.

Foreign companies holding leases or licences.
Sub-section (1.) amended by No. 8, 1935, s. 3.

(2.) Any foreign company which, at the date of commencement of this Ordinance, holds a lease or licence under any law of the Northern Territory shall, within six months after that date or such extended period as the Minister allows, become registered in accordance with the provisions of this Ordinance.

Amended by No. 8, 1935, s. 3.

7.—(1.) A foreign company shall not, except with the consent of the Governor-General, be registered unless, in the opinion of the Minister, it has sufficient fixed assets or uncalled capital in the Northern Territory to secure its creditors in the Territory, or unless it deposits with the Minister such security as the Minister thinks fit for the payment of those creditors.

Certain foreign companies not to be registered.

(2.) A foreign company shall not be registered if, in the opinion of the Minister, any prospectus or other document issued in connexion with the formation of the company, or in connexion with the affairs of the company, contains any false or misleading statement.

(3.) A foreign company the rules or articles of association of which permit the issue of share warrants to bearer shall not, unless exempted in pursuance of the next succeeding sub-section, be registered.

(4.) The Minister may exempt any British company from the provisions of the last preceding sub-section.

8.—(1.) An application for the registration of a foreign company shall be in the prescribed form and shall be accompanied by the following documents and information, namely:—

Applications for registration. Documents and information to be furnished.

- (a) a certified copy of the charter, statute, or memorandum and articles of association of the company, or any other instrument constituting or defining the constitution of the company;
- (b) a certified copy of any alterations made in such charter, statute, memorandum or articles of association or other instrument;
- (c) the name under which the company proposes to carry on operations in the Northern Territory;
- (d) except as prescribed, a certified list of shareholders and debenture holders of the company showing the name of each shareholder or debenture holder, together with his nationality, place of residence and the number and value of the shares or debentures held by him;

- (e) a certified list of the directors or members of the board of management of the company showing the full name, place of birth, nationality and place of residence of each;
- (f) a certified copy of the latest general balance-sheet and report of the directors or board of management of the company;
- (g) the name and address of a person resident in the Northern Territory who is authorized to accept, on behalf of the company, service of process, and notices addressed or given to the Company (which person is in this Ordinance referred to as the Agent of the Company); and
- (h) any additional documents or information which the Minister requires or are prescribed.

(2.) The application shall be made by a director or the general manager or the secretary of the company or by some person acting in a similar capacity or by a person duly authorized by the company to make the application and shall be addressed to the Registrar of Companies for the Northern Territory or to the Acting or Deputy Registrar of Companies.

Certificate of registration.

9.—(1.) The Registrar of Companies, or the Acting or Deputy Registrar of Companies, as the case may be, shall, upon payment of the prescribed fee, issue to a foreign company registered under this Ordinance a certificate of registration which shall specify the operations in which the company is entitled to engage.

(2.) The certificate of registration shall be *prima facie* evidence that the company is registered, and is entitled to engage in the operations specified therein.

Application of Companies Acts.
Inserted by No. 8, 1935, s. 4.

9A. The provisions of "The Companies Act 1892" and "The Companies Amendment Act 1893" of the State of South Australia in their application to the Northern Territory shall, so far as applicable, but subject to the provisions of this Ordinance and subject to such modifications, adaptations and exceptions as are prescribed, apply to foreign companies registered under this Ordinance as if they were companies registered under those Acts or either of them.

Foreign company not to engage in unauthorized operations.

10.—(1.) It shall be a condition of the registration of a foreign company that it shall not, except with the consent in writing of the Minister, engage in any operations other than operations specified in the certificate of registration.

(2.) Any foreign company which, without the consent in writing of the Minister, engages in any operations not specified in the certificate of registration shall be guilty of an offence.

Penalty: One hundred pounds or, in the case of a continuing offence, Five pounds for every day during which the company so engages in operations.

11. A foreign company shall not carry on operations in the Northern Territory under any name other than that under which it is registered.

Foreign company to carry on business under registered name only.

Penalty: One hundred pounds or, when the offence is a continuing offence, Five pounds for every day during which the company so carries on operations.

12.—(1.) Every registered foreign company shall, at least once in every year and at intervals not exceeding fifteen months, furnish to the Minister a return comprising the following documents and information, namely:—

Documents and information to be furnished by registered companies.

- (a) a certified copy of the latest general balance-sheet and report of the directors or board of management of the company;
- (b) a statement, verified as prescribed, showing—
 - (i) the alterations (if any) made since the last preceding return under this section, in the charter, statute or memorandum and articles of association of the company or any other instrument constituting or defining the constitution of the company;
 - (ii) except as prescribed, the names of persons who have, since that date, ceased to be shareholders or debenture holders or directors or members of the board of management of the company;
 - (iii) except as prescribed, the names, nationality and places of residence of persons who have, since that date, become shareholders or debenture holders of the company, together with the number and value of the shares or debentures held by each; and
 - (iv) the full names, places of birth, nationality and places of residence of persons who have, since that date, become directors or members of the board of management of the company; and

(c) any additional information which the Minister requires or is prescribed.

(2.) For the purposes of this section the documents and information furnished by a foreign company under section eight of this Ordinance shall be deemed to be a return under this section.

Foreign banking
and insurance
companies.

13. Foreign banking and insurance companies may be registered and licensed to carry on operations in the Northern Territory subject to such conditions as the Minister thinks fit.

Non-British
company not
to have British
name.

14. A foreign company which is not a British company shall not be registered under any name which is calculated to lead to the belief that the company is a British company.

Registration of
foreign
company not
to authorize
use of name
otherwise
prohibited.

15. The registration of a foreign company under this Ordinance under any name the use of which is under any law of the Commonwealth disallowed shall not be deemed to authorize the use of that name as the name of the company.

Liability of
agent of foreign
company.

16. The agent of a registered foreign company shall do all things which by this Ordinance are required to be done by the company and shall be personally liable, in the absence of a reasonable excuse, for any neglect or failure of the company to comply with the provisions of this Ordinance.

Death, &c., of
agent.

17.—(1.) In the event of the death or dismissal or absence from the Northern Territory of the agent of a foreign company, or the revocation of the authority granted by the company to the agent, the company shall within thirty days after the death, dismissal, commencement of absence or revocation, or such extended period as the Minister allows, authorize some other person to be its agent in the Northern Territory and shall furnish in respect of that agent the documents and particulars required by paragraphs (g) and (h) of sub-section (1.) of section eight of this Ordinance.

(2.) In the event of any such death, dismissal, absence or revocation the company shall, until a new agent is appointed and the document and particulars required to be furnished in respect of the new agent have been furnished to the Minister, carry on only such operations in the Northern Territory as the Minister approves, and until that time any process or notices may be served on the company by being left at or sent by post to the office or place of business of the company.

18.—(1.) Before any foreign company voluntarily ceases to carry on operations in the Northern Territory it shall by notice published in two consecutive issues of the *Gazette* and in such other manner as is prescribed, give notice of its intention to do so.

Foreign company voluntarily ceasing to carry on operations in Northern Territory.

(2.) For three months after the date on which the company ceases to carry on operations in the Northern Territory process, notices and other documents may be served on the agent of the company, or if there is no agent, by leaving them at, or posting them to, the office or place at which the company last carried on operations prior to the publication of the notice.

19. Where a foreign company is wound up or ceases operations in the Northern Territory, the assets of the company in the Northern Territory shall be charged in the first instance with the payment of the creditors of the company in the Northern Territory.

Assets of foreign company which is wound up or ceases operations in the Northern Territory.

20.—(1.) Where, in the opinion of the Minister, a foreign company has failed to comply with the provisions of this Ordinance, or with the conditions under which it was registered, or has published misleading or untrue statements in regard to the affairs, operations or property of the company, the Minister may, by notice in writing addressed to the agent of the company and by notice in the *Gazette*, cancel the registration of the company, and after the receipt by the agent of the first mentioned notice the company shall not, without the consent of the Minister, carry on operations in the Northern Territory.

De-registration of Foreign Companies. Sub-section (1.) amended by No. 8, 1935, s. 5.

Penalty: One hundred pounds, or in the case of a continuing offence, Five pounds for every day during which the company carries on operations.

(2.) The cancellation of the registration of a foreign company shall not affect the rights of any person against the company at the date on which the notice is published in the *Gazette*.

(3.) Upon the cancellation of the registration of any foreign company, any lease or licence held by the company under any law or Ordinance in force in the Northern Territory shall be deemed to be determined.

21.—(1.) The powers and functions of the Registrar of Companies under the *Companies Act* 1892 and the *Companies Amendment Act* 1893 of the State of South Australia in their application to the Northern Territory and under this Ordinance shall be exercised and performed by the Registrar-General for the Northern Territory appointed under the *Registration Ordinance* 1927-1928.

Exercise of powers of Registrar of Companies. Sub-section (1.) amended by No. 8, 1935, s. 6.

(2.) The Minister may appoint persons to be Acting Registrar of Companies and Deputy Registrar of Companies respectively, and may confer on those persons such powers and functions as he thinks fit.

Proceedings
for offences.

22. Proceedings for offences against this Ordinance may be instituted in the Supreme Court of the Northern Territory by the Minister or by such other person as the Minister in writing directs.

Regulations.

23.—(1.) The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.

(2.) All regulations made in pursuance of this Ordinance shall—

- (a) be published in the *Gazette*;
- (b) take effect from the date of publication in the *Gazette* or from a later date specified in the regulations; and
- (c) be laid before both Houses of the Parliament within thirty days after the making thereof, or if the Parliament is not then sitting, within thirty days after the next meeting thereof.

(3.) If either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House disallowing any regulation, that regulation shall thereupon cease to have effect.

THE SCHEDULE.

DETERMINATION OF APPLICATION OF STATE ACTS.

Name of Act.	Portions of Act which are to cease to apply to the Northern Territory.
<i>Companies Act</i> 1892 (55 and 56 Victoria, No. 557)	Definition of "Foreign Company" in section 3, and sections 196 to 210 inclusive
<i>Companies Amendment Act</i> 1893 (55 and 56 Victoria, No. 576)	Sections 3, 5, 6, 7, 8 and 9