



**CASCADE BREWERY CO. LTD (SHAREHOLDERS TRUST)
ACT 1981**

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No. 14 of 1981
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**SCHEDULE 1—SHAREHOLDERS WHOSE WHEREABOUTS
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AN ACT to make provision with respect to certain shares of the Cascade Brewery Co. Ltd, and the unclaimed dividends payable in respect of those shares, held in trust for a number of persons whose whereabouts are unknown.

[Royal Assent 15 April 1981]

WHEREAS by a scheme of amalgamation carried into effect in 1958 the shareholders of J. Boag and Son (1911) Pty Ltd (in this Act referred to as “the Boag Company”) became entitled to shares in the Cascade Brewery Co. Ltd (in this Act referred to as “the Cascade Company”):

AND WHEREAS the shares of the Cascade Company to which certain of the shareholders of the Boag Company became so entitled were, by reason that the whereabouts of those shareholders were then unknown, vested in certain trustees for the benefit of those shareholders pursuant to an indenture made on 12th March 1958:

AND WHEREAS by a deed of appointment made on 9th May 1977 the Perpetual Trustees and National Executors of Tasmania Limited became trustee for the persons entitled to those shares:

AND WHEREAS it is expedient that the shares and the unclaimed dividends payable in respect of them be dealt with as provided in this Act and that the other provisions of this Act be enacted—

BE it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

1—This Act may be cited as the *Cascade Brewery Co. Ltd (Shareholders Trust) Act* 1980.

Interpretation.

2—In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“the indenture” means the indenture dated 12th March 1958 by virtue of which shares of the Cascade Company vested in trustees for the benefit of a prescribed shareholder;

“prescribed shareholder” means a person specified in Schedule 1 who is entitled to trust shares;

“trust shares” means shares of the Cascade Company which, at the commencement of this Act, are held in trust for a prescribed shareholder by the Trustee Company by virtue of the indenture and of the deed of appointment referred to in the preamble;

“Trustee Company” means the Perpetual Trustees and National Executors of Tasmania Limited;

“unclaimed dividends” means any unclaimed dividends paid or payable in respect of the trust shares.

Transfer of trust shares and unclaimed dividends to Treasurer.

3—(1) As soon as practicable after the commencement of this Act, the Trustee Company shall transfer all trust shares and pay over all unclaimed dividends to the Treasurer.

(2) Notwithstanding any other right subsisting in the Trustee Company, the Trustee Company may deduct from the unclaimed dividends payable in respect of any trust shares an amount to reimburse itself for expenses incurred by it in endeavouring to trace the person entitled to the shares.

4—(1) The Treasurer may at any time sell trust shares transferred to him under section 3 (1) and, where he exercises that power of sale, he shall, after deducting from the proceeds of the sale the amount referred to in subsection (2) of this section, pay the balance into the Consolidated Revenue Fund.

Dealing with transferred shares and unclaimed dividends.

(2) The Treasurer may deduct from the proceeds of the sale of trust shares under subsection (1) an amount sufficient to meet the expenses incurred by him in connection with that sale.

5—(1) Where the Treasurer, on receipt of a claim in writing from a person claiming to be entitled to trust shares or unclaimed dividends, is satisfied that that person would have been entitled to those shares or unclaimed dividends had they not been transferred or paid to the Treasurer under this Act, the Treasurer shall—

Subsequent claims.

- (a) in the case of a claim in respect of trust shares—transfer those shares to that person or, where the trust shares have been sold under section 4 (1), pay to that person out of the Consolidated Revenue Fund an amount equivalent to the proceeds of the sale, less any amount deducted from those proceeds under section 4 (2); or
- (b) in the case of a claim for unclaimed dividends—pay to that person out of the Consolidated Revenue Fund an amount equivalent to the amount of the unclaimed dividends to which he claims to be entitled, less any amount deducted in respect of those dividends under section 3 (2),

but where the Treasurer is not so satisfied, he shall refuse the claim and notify that person in writing accordingly of his refusal.

(2) A person whose claim is refused under subsection (1) may within 90 days after the date on which he received notification of that refusal apply to the Supreme Court for an order—

- (a) for the transfer to him of the trust shares to which he claims to be entitled or, if they have been sold under section 4 (1), for the payment to him out of the Consolidated Revenue Fund of an amount equivalent to the proceeds of the sale, less any amount deducted from those proceeds under section 4 (2); or

(b) for the payment to him out of that Fund of an amount equivalent to the amount of the unclaimed dividends to which he claims to be entitled, less any amount deducted in respect of those dividends under section 3 (2),

and, if that Court is on the hearing of the application satisfied that the claimant would have been entitled to the trust shares or unclaimed dividends had they not been transferred to the Treasurer, it shall make such an order.

(3) Where a claimant makes an application under subsection (2), the claimant shall serve notice of that application on the Treasurer and such other persons as the Supreme Court may direct, and the Treasurer and those other persons shall, together with the claimant, be parties to the application.

(4) As soon as practicable after making an order under subsection (2), the Supreme Court shall cause a copy of the order to be served on the Treasurer, who shall, on receipt of the order, cause a copy of it to be served on the other parties to the application.

(5) The decision of the Supreme Court on the hearing of an application under this section is final.

(6) The Treasurer shall comply with an order made under subsection (2) within 28 days after the date of the making of the order.

(7) Any amount required to be paid out of the Consolidated Revenue Fund under this section is a charge on that Fund and is payable out of that Fund without further appropriation than this section.

(8) Where the Treasurer has transferred to a person any shares under subsection (1) or made a payment to a person under that subsection in respect of any trust shares or unclaimed dividends, he is not liable to any other person in respect of any claim made by that other person in relation to those shares or dividends, but that other person may have recourse to the first-mentioned person or, if he is dead or under a legal disability, to his legal personal representatives.

SCHEDULE 1

Section 2

SHAREHOLDERS WHOSE WHEREABOUTS ARE UNKNOWN

Persons entitled to shares	Last known address
Anderson, Sydney A.	Latrobe, Tasmania
Colgrave, David	Ulverstone, Tasmania
Davis, Mary Ann (Miss)	Sydney Hotel, Launceston, Tasmania
Eddy, John Stretton	T.R.C. Hotel, Launceston, Tasmania
Hart, Fred Henry	Kingston Beach, Tasmania
Herring, Francis M.	Ringarooma, Tasmania
The trustees or personal representatives of the Estate of the late Arthur Homewood	Ballarat, Victoria
The trustees or personal representatives of the Estate of the late John Jardine	Zeehan, Tasmania
Jardine, Thomas F.	Deloraine, Tasmania
Pierce, Christina (Mrs)	98 Claremont Avenue, Malvern, Victoria
The trustees or personal representatives of the Estate of the late Miss Elizabeth M. Reynolds	Beauty Point, Tasmania
The trustees or personal representatives of the Estate of the late E. A. Thurling	C/o Furling & Hamilton, Elizabeth Street, Melbourne
Turner, Sarah	Tamar Hotel, Launceston, Tasmania
White, Ellen Teresa (Mrs)	Devonport, Tasmania

