

T A S M A N I A.



1898.

ANNO SEXAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 26.



AN ACT to amend "The Foreign Companies Act." A.D. 1898.
[15 October, 1898.]

WHEREAS it is expedient to amend "The Foreign Companies Act" in the manner hereinafter appearing: PREAMBLE.

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:—

1 This Act may be cited as "The Foreign Companies Act, No. 2." Short title.

2 In this Act the expression "the Principal Act" shall mean "The Foreign Companies Act," and the word "Company" in this Act and in the Principal Act shall include any unincorporated Company or Association of persons which may sue or be sued or hold property in the name of the Secretary or other officer of the Company duly appointed for that purpose. Interpretation.

3 Every Foreign Company which—

1. In pursuance of any Act of the Imperial Parliament, has appointed an Agent or Attorney in *Tasmania* with power and authority to sue and be sued on behalf and in the name of the Company, and has caused the instrument appointing such Agent or Attorney to be duly recorded and enrolled in the Supreme Court of *Tasmania*; or

Certain Companies to be deemed to have complied with the provisions of Section Five of the Principal Act.

Foreign Companies.

A.D. 1898.

ii. In pursuance of any Act of the Parliament of *Tasmania*, has delivered to the Registrar a Memorial of the names of every Agent authorised to act as the Attorney of the Company in *Tasmania*, and has otherwise complied with all the requirements of the same Act in reference to such Company ;

shall be deemed to have complied with the provisions of Section Five of the Principal Act.

Registrar to give Certificate.

4 The Registrar shall, upon application by the registered Attorney or Agent of any such Company as is mentioned in Section Three of this Act, deliver to such Attorney or Agent a Certificate in the form given in the Schedule (1.) thereto, and such Certificate shall be taken and allowed as evidence in all Courts that the provisions of Section Five of the Principal Act have been complied with, without proof of the appointment of the Registrar or of his signature.

Agent or Attorney to deposit documents with Registrar.

5 The Agent or Attorney in *Tasmania* of every Foreign Company which has been registered under the provisions of the Principal Act shall, on or before the Thirty-first day of *December*, in the year One thousand eight hundred and ninety-nine, and the Agent or Attorney of every Foreign Company which shall hereafter desire to be registered under the Principal Act shall, in addition to the documents mentioned in Section Five of the Principal Act, deposit with the Registrar a written or printed copy of the Deed or Memorandum and Articles of Association or other instrument declaring the constitution and functions of the Company, signed by the Agent or Attorney ; and such signed copy of such Deed or Memorandum and Articles of Association or other instrument declaring the constitution and functions of the Company shall be taken and allowed in evidence in all Courts as a true copy of such Deeds or Memorandum and Articles of Association or other such instrument as aforesaid without proof of the signature of the Agent or Attorney.

Penalty.

If any Attorney or Agent of a Foreign Company shall fail to comply with the provisions of this Section, he shall be liable to a penalty of Five Pounds for every day on which any business of the Company is carried on until such provisions are complied with.

Registration of Foreign Companies.

6 In lieu of complying with the provisions of Section Five of the Principal Act, any Foreign Company may cause itself to be registered in *Tasmania* in the manner hereinafter prescribed.

Documents to be deposited in Office of Registrar of Supreme Court.

7 A Foreign Company desiring to be so registered shall cause to be lodged in the Office of the Registrar, either—

i. A Certificate of Incorporation under the hand of the Registrar of Joint Stock Companies or other proper Officer of the Country of Incorporation, and under the Seal (if any) of his Office, together with a Copy, certified by such Registrar or other Officer, of the Memorandum and Articles of Association, Deed of Settlement, or other instrument declaring the constitution and functions of the Company ; or

ii. If the Company is incorporated or constituted in the Country of Incorporation or Constitution by an Act or Ordinance, a copy of such Act or Ordinance purporting to be printed

Foreign Companies.

by the Queen's Printer or the Official Printer for the Government of the Country of Incorporation or Constitution, or certified under the hand of a Notary Public and under the seal of his office; or

iii. If the Company is incorporated by Royal Charter, a copy of such Royal Charter certified by a Notary Public; or

iv. Such evidence of Incorporation or Constitution as the Registrar may require;

together with, in any of the three last-mentioned cases, a Copy of every Deed of Settlement or other instrument declaring the constitution and functions of the Company.

8 The Governor in Council may from time to time prescribe what fees shall be payable upon the registration of a Foreign Company under the Principal Act or this Act, but such fees shall not exceed the fees payable upon the registration of a Joint Stock Company under the laws of *Tasmania*.

A.D. 1898.

Fees on registration.

*1500
Gazette 1899
p 278
268*

9 Upon the lodging of such evidence of incorporation as is hereinbefore prescribed, and upon payment of the prescribed fee, the Registrar shall issue a Certificate, under his hand and the seal of his office, in the form following, or to the like effect:—

Certificate of registration to be issued.

" I , Registrar of the Supreme Court of the Colony of *Tasmania*, hereby certify that the , duly incorporated or constituted on under the Laws of , has this day been registered in the Office of the Registrar of the Supreme Court of the Colony of *Tasmania*, in accordance with the provisions of "The Foreign Companies Act, No. 2."

Given under my hand and seal of Office, at this day of 18 .

A.B. Registrar."

A copy of such Certificate shall be published in the *Gazette*.

Any Company registered under the Principal Act may also publish in the *Gazette* a copy of the Certificate of Registration issued to it thereunder.

10 A copy of any Deed or Memorandum or Articles of Association or other instrument declaring the constitution and functions of any Company registered under this Act or the Principal Act, accompanied by a Certificate from the Registrar that such document is a true copy of the like document deposited with him or lodged in his office as required by this Act, shall be taken and allowed in evidence in all Courts as a true copy of such document without proof of the appointment of the Registrar or his signature. The Registrar shall, upon application and payment of a fee of Five Shillings, affix such Certificate as aforesaid to any true copy of any such document as aforesaid.

Copy of document with Registrar's Certificate to be evidence.

11 Every Foreign Company desiring to be registered under the provisions of this Act shall file every power of attorney appointing any agent or agents to act on behalf of such Company, or a notarial copy thereof under the provisions of *The Powers of Attorney Act*, and a copy of every power of attorney or notarial copy thereof so filed,

Proof of appointment of Agent.

Foreign Companies.

A.D. 1898.

accompanied by a certificate from the Registrar of Deeds that such document is a true copy of the power of attorney or notarial copy thereof so filed, shall for all purposes be receivable in evidence before any Court, person, or tribunal having authority by law to hear and receive evidence, without further proof of the appointment of the Registrar or his signature, or of the sealing, signature, or execution of the original power of attorney purporting to be sealed and executed by the Company. The Registrar shall, upon application and payment of a fee of Five Shillings, affix such certificate as aforesaid to any true copy of such document as aforesaid.

Effect of registration.

12 Every Foreign Company registered under the provisions of this Act or the Principal Act shall, subject to the provisions hereinafter and in the Principal Act contained, have and be entitled to the same rights, powers, capacities, and privileges, and shall be subject to the same obligations, liabilities, and disabilities, as if it had been incorporated under the laws of *Tasmania*; and, in addition, every Foreign Company which is incorporated or established according to the laws of some part of Her Majesty's Dominions other than *Tasmania* shall, subject as aforesaid, be entitled to hold and convey land.

Proviso.

Provided, however, that nothing in this Act shall have the effect of enabling any such Company to take or hold land in *Tasmania* except under and subject to such conditions (if any) as are imposed by the constitution of the Company: And provided further, that nothing in this Act shall have the effect of binding any such Company to any contract entered into by a Registered Agent or Agents appointed for specified purposes only in excess of the authority conferred upon such Agent or Agents, but such Company may sue or be sued upon any contract entered into by such Company, notwithstanding the fact that such contract has not been made on behalf of such Company by such Registered Agent or Agents appointed for specified purposes only.

Company to register name of agent and situation of Office.

13 Every Foreign Company which shall claim the benefit of Section Three of this Act, or which shall be registered under the provisions of this Act, shall register the names and places of abode or business of the person or several persons appointed by such Company under a power of Attorney to carry on the business of such Company in *Tasmania*, and also the situation of the Office or one of the Offices of such Company in this Colony; and the person or several persons so registered shall be deemed to be the Registered Agent or the several Registered Agents, as the case may be, of such Company in *Tasmania*, and such Office shall be the Registered Office of such Company for the purposes of this Act.

If any Agent or Attorney of any Foreign Company shall fail to comply with the provisions of this Section he shall be liable to a penalty not exceeding Five Pounds for every day during which such Company shall carry on business in *Tasmania*.

Mode of registration.

14 The Registration of every such Agent or Agents and Office shall be effected in the following manner:—The duly appointed Attorney or other person or persons or some one of them duly appointed to act as the Agent or Agents of the Company in *Tasmania*, shall make and sign a Declaration in the form given in the Schedule (2), or to the like effect, before a Justice of the Peace, and such Declaration when so made and signed shall be published in two consecutive numbers of the

Schedule (2.)

Foreign Companies.

Gazette, and copies of such *Gazette* shall be forwarded to and be retained by the Registrar. A.D. 1898.

Every person who wilfully makes any such Declaration falsely in any particular shall be guilty of a misdemeanour, and on conviction thereof be liable to be imprisoned for any term not exceeding Two years.

15 A Certificate in the form given in the Schedule (3.), or to the like effect, purporting to be under the hand of the Registrar (who is hereby required to give such Certificate to any person applying for the same on payment of One Shilling), and which Certificate shall set forth the name of the Agent or Agents of, and the situation of the Office of the Company in *Tasmania*, shall as against the Company be conclusive evidence, and as against all other parties shall be *prima facie* evidence, in all Courts that the Foreign Company therein referred to has been duly incorporated, or not, as the case may be, that the person or persons named therein as Agent or Agents is or are the Agent or Agents of such Company in *Tasmania*, and that the Office of such Company in *Tasmania* is situate as therein stated, and that such Agent or Agents and Office have been duly registered under the provisions of this Act, and of the time of registration, and of all other particulars mentioned in such Certificate; and evidence of the appointment of the Registrar or of his signature shall not be required. Proof of registration.
Schedule (3.)

16—(1.) When and so often as any such Registered Office shall be removed, notice of such removal shall be made and given to the Registrar, and shall be recorded by him. Notice of removal
of Office or
substitution of
Agent to be given.

(2.) When and so often as any other person shall be appointed to fill the vacancy caused by the death or resignation of the Registered Agent of any Foreign Company, or shall be substituted for the Registered Agent of any such Company, a declaration and notice shall be made and given within a calendar month from the date on which the power of Attorney or other instrument or document appointing such person Agent of the Company in *Tasmania* shall be executed or shall arrive in *Tasmania*; such declaration shall be in the form of Schedule (4.).

(3.) When any Registered Foreign Company shall have, by power of attorney duly filed, appointed any other person to act as substitute attorney or agent of such Company during the absence from *Tasmania* of the Registered Agent, such person so appointed to act as substitute attorney or agent as aforesaid shall be deemed for all purposes to be the Registered Agent of such Company during the absence from *Tasmania* of the Registered Agent if and when a notice shall have been published in one number of the *Gazette*, a copy of which shall be sent to and retained by the Registrar, notifying the name and place of abode or business of such substitute Attorney or Agent.

(4.) If any Attorney or Agent of a Foreign Company shall fail to comply with the provisions of this Section he shall be liable to a penalty of Five Pounds for every day on which any business of the Company is carried on, until such provisions are complied with.

(5.) The provisions of this Section shall apply to every Foreign Company registered under this Act or the Principal Act.

17 Any Writ or other process issued against a Registered Foreign Company, or any notice addressed to a Registered Foreign Company, may be served by being left at the registered office of the Company. Service of process
on Registered
Foreign Com-
panies.

Foreign Companies.

A.D. 1898.

with some person there; or, if there be no registered office, or no person can be found at the registered office for two consecutive days during ordinary business hours, by being affixed in the Office of the Registrar of the Supreme Court or other Court from which the process is issued.

Disabilities of Companies not registered.

18 On and after the First day of *July*, One thousand eight hundred and ninety-nine, a Foreign Company shall not, except by virtue of some Act of the Parliament of *Tasmania*, or some Act or Ordinance having the force of Law in *Tasmania*, or some Royal Charter extending to and having effect in *Tasmania*, be competent to take, hold, convey, or transfer land in *Tasmania* for an estate of freehold, unless such Company has been registered in *Tasmania* under the Principal Act or this Act, and is a Company incorporated or established according to the laws of some part of Her Majesty's Dominions other than *Tasmania*.

Proof of registration.

19 Production of *Gazette* purporting to contain a copy of a certificate issued under the provisions of this Act or of the Principal Act shall be sufficient *prima facie* evidence for the purpose of proceedings in any Court of Justice, or for any other purpose, of the due registration of the Company mentioned in such certificate.

Companies may be wound up.

20 The Supreme Court shall have jurisdiction to wind up a Registered Foreign Company so far as it carries on operations within *Tasmania*.

Application of proceeds of lands of Company.

21 In the event of the winding up of a Registered Foreign Company, all land of the Company within *Tasmania* shall, subject to any valid mortgage, encumbrance, or charge subsisting thereon, which shall have been duly registered in compliance with "The Registration Act," be applicable in the first instance in payment and discharge of the debts of the Company contracted within *Tasmania*, in priority to any other debts of the Company, except debts secured by any such mortgage, encumbrance, or charge.

Saving of certain past transactions.

22 Every Foreign Company which has been registered under the provisions of the Principal Act, and which holds land in *Tasmania* at the commencement of this Act, and every Foreign Company which shall be duly registered under the provisions of this Act, and which holds lands in *Tasmania* at the commencement of this Act, shall be entitled to the same rights and privileges with respect to such land as if this Act had been in force and the Company had been registered under its provisions when the land was first acquired by the Company.

Time within which certain Companies must comply with provisions of the Act.

23 The time within which any such Company as is mentioned in Section Twenty-four of the Principal Act is required to comply with the provisions of that Act or of this Act is hereby extended to the Thirty-first day of *December*, in the year One thousand eight hundred and ninety-nine.

Time within which other Companies must comply with the provisions of the Act.

24 The time within which any such Company as is mentioned in Section Twenty-five of the Principal Act is required to comply with the provisions of that Act or of this Act is hereby extended to the Thirtieth day of *June*, in the year One thousand eight hundred and ninety-nine.

Foreign Companies.

25 Any person or Company aggrieved by any summary conviction under this or the Principal Act may appeal therefrom in the mode prescribed in *The Appeals Regulation Act*. A.D. 1898.
Appeal.
19 Vict. No. 10.

26 This Act and the Principal Act shall be read and construed together as one Act. Acts to be read together.

SCHEDULE.**(1.)**

THIS is to certify that a Foreign Company called “ _____ Company, Limited,” [or, as the case may be] incorporated or constituted [as the case may be] and carrying on [or, about to carry on] business in Tasmania, has complied with the provisions of Section Five of “The Foreign Companies Act,” as provided by Section Three of “The Foreign Companies Act, No. 2.”

Given under my hand this _____ day of _____ 18 .

Registrar of the Supreme Court of Tasmania.

(2.)

I, THE undersigned _____, being the duly appointed Attorney [or Agent, as the case may be] of [here state the name of the Foreign Company], do hereby solemnly and sincerely declare that the said Company proposes carrying on business in Tasmania.

The name of the Agent of the said Company is [here state full Christian name and surname, and place of abode or business].

The Office of the said Company in Tasmania is at [here state the City, Town, or place where situate, and the name of the street and number of house, if any].

The place where the said Company was incorporated or constituted [as the case may be] is [omit reference to place of incorporation if Company unincorporated].

The situation of the Head Office is at [state name of street, &c.]

The said Company has duly complied with the provisions of “The Foreign Companies Act, No. 2.”

All which matters I conscientiously believe to be true; and I make this declaration under the provisions of “The Statutory Declarations Act, 1837.”

[Signature].

Taken before me, at _____, in Tasmania, this _____ day of _____ 18 .

a Justice of the Peace.

(3.)

THIS is to certify that a Foreign Company called “The _____ Company, Limited,” [or, as the case may be], incorporated or constituted [or, as the case may be] in _____ and carrying on [or about to carry on] business in Tasmania, duly registered the name and place of abode or business of the person appointed by such Company as Agent to carry on its business in Tasmania, and also the situation of the Office of such Company in Tasmania, on the _____ day of _____ 18 , and has duly complied with the provisions of “The Foreign Companies Act, No. 2.”

The name of the Agent is _____, the Office of the Company in Tasmania is situated at _____, and the place where the said Company was incorporated or constituted [or if unincorporated, state where the Company has its Head Office] is _____

Given under my hand, this _____ day of _____ 18 .

Registrar of the Supreme Court of Tasmania.

Foreign Companies.

A.D. 1898.

(4.)

I, THE undersigned _____, being the duly appointed Attorney [*or Agent, as the case may be*] of [*here state the name of the Foreign Company*] do hereby solemnly and sincerely declare—

That the said Company was registered in Tasmania under [*state title of Act*] on the _____ day of _____ 18 .

That I am the Agent of the said Company [*here state whether in succession to or substitution for or to act during the absence from Tasmania of the Registered Agent*].

All which matters I conscientiously believe to be true : and I make this declaration under the provisions of "The Statutory Declarations Act, 1837."

[Signature.]

Taken before me at _____
of _____ 18 .

in Tasmania, this _____ day

A Justice of the Peace.