



Western Australia.

ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. VI.

AN ACT to impose Duties in respect of Dividends or Profits of Incorporated Companies.

[Assented to, 5th October, 1899.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Companies Duty Act, 1899.

Short title.

2. IN this Act, and in any Regulations made under it, unless the context otherwise indicates—

Interpretation.

“Company” means and includes—

Every incorporated company or association, where-soever and howsoever incorporated, associated, or formed, and whether under the laws of Western Australia or under the laws of any other country, and whether under a statute, letters patent, charter, or otherwise, which carries

63° VICTORIÆ, No. 6.

Companies Duty.

on business in Western Australia, and is not a brewery company or a company paying duties of excise, and is not a Friendly Society registered under the Friendly Societies Act, 1894, or a Life Assurance Company;

“Dividend” means and includes every sum of money intended to be paid or credited to or distributed among any members of or in any company, whether the same is derived from income or from capital, and whether it is called by the name of dividend, bonus, profits, interest, or any other name;

“Officer” includes public officer, director, manager, and secretary, and the person whose appointment as attorney of the company is registered as required by the Companies Act, 1893;

“Prescribed” means prescribed by the Regulations.

Duties on dividends
under direction of
Colonial Treasurer.

3. FROM the commencement of this Act there shall be charged, raised, levied, collected, and paid unto and for the use of Her Majesty the duties hereinafter provided. Such duties shall be under the direction of the Colonial Treasurer, and he, with the aid of the officers of his department and such other persons as the Governor may appoint, shall raise, levy, collect, receive, and account for such duties, and put this Act in execution, and do all such things as are necessary or expedient for that purpose, but subject, in all matters not specially provided for in this Act or the Regulations, to the approval of the Governor.

Returns to be made
of dividends
declared and of
duty payable
thereon.

4. WHEN and so often as any dividend is declared payable to any shareholders in a company carrying on business in Western Australia, and not elsewhere, and not being a mining company or a company which carries on insurance business only, such company shall, within seven days from the time when such dividend has been declared, forward to the Colonial Treasurer a return in the prescribed form, containing the prescribed particulars, and verified by a statutory declaration under the hand of and made by an officer of the company, stating the amount of such dividend, the date when it was declared, and such further particulars as may be prescribed.

Every such company shall, at the time of making such return, pay to the Colonial Treasurer a duty equal to One shilling for every Twenty shillings of the amount of such dividend.

Provided that the duty payable in respect of the first dividend declared by any company after the coming into operation of this Act shall only be in proportion to the time that has elapsed after that day up to the day on which the dividend is declared as compared with the whole period that has elapsed since the last preceding dividend was declared by the company.

63° VICTORIÆ, No. 6.

Companies Duty.

5. EVERY mining company, and every company which carries on business within and also beyond Western Australia, shall, on or before the first day of April in every year, forward to the Colonial Treasurer a return in the prescribed form containing the prescribed particulars, and verified by a statutory declaration under the hand of and made by an officer of the company, stating the amount of profits made by the company in Western Australia during the year ending the thirty-first day of December immediately preceding the return: Provided that companies which balance their accounts on other days than the thirty-first day of December shall, within three months after each balancing day, make a return verified as aforesaid, showing the profits made between the last balancing day and the balancing day immediately preceding the last balancing day.

Mining companies and companies carrying on business beyond Western Australia.

Every such company shall, at the time of making such return, pay to the Colonial Treasurer a duty equal to One shilling for every Twenty shillings of such profits.

Provided that mining companies, if they declare any dividend during the year for which such return is made, shall, before paying such dividend, forward to the Colonial Treasurer a return in the prescribed form and containing the prescribed particulars, and verified by a statutory declaration, stating the amount of such dividend, the date when it was declared, and such further particulars as may be prescribed, and shall at the time of making such return pay to the Colonial Treasurer a duty of One shilling for every Twenty shillings of such dividend; and such payment shall be taken as a payment on account of the duty payable on the profits for the year, and the company, on making the yearly return, shall have credit for such payment, and a return of any amount overpaid.

Provided that the duty payable for the year One thousand eight hundred and ninety-nine shall only be in proportion to the unexpired portion of the year after the coming into operation of this Act as compared with the whole year.

Provided, also, that this clause shall not apply to any company which carries on insurance business only.

6. EVERY company which carries on in Western Australia any fire, fidelity, guarantee, or marine insurance, or any other insurance or assurance business whatever, except life assurance, shall, on or before the first day of March in every year, forward to the Colonial Treasurer a return in the prescribed form and containing the prescribed particulars, and verified by statutory declaration, under the hand of and made by the manager or public officer or a director of such company, or, in the case of companies which have not their head office or chief place of business in Western

Returns in case of insurance companies duty to be paid on premiums.

63° VICTORIÆ, No. 6.

Companies Duty.

Australia, by the company's manager, stating the amount of the premiums received or in any manner charged in account by such company, or by its agent or agents in Western Australia, during the year ending on the preceding thirty-first day of December.

Such premiums shall be the net premiums, and shall exclude any portion of such net premiums actually paid away by way of re-insurance effected in Western Australia with any other company.

The company shall at the same time pay to the Colonial Treasurer, in lieu of the duty and sums of money payable under the preceding sections of this Act, a sum equal to Twenty shillings for every One hundred pounds, and a proportionate sum for every part of One hundred pounds, of such premiums:

Provided that the duty payable in respect of the premiums received during the year One thousand eight hundred and ninety-nine shall only be in proportion to the unexpired portion of the year after the coming into operation of this Act as compared with the whole year.

Case of companies carrying on business by trustees or agents.

7. WHEN any person carries on business in Western Australia as trustee or agent for a company, then that person and the company shall each be liable to pay the duties and discharge the obligations which the company, if it carried on business in Western Australia, would be liable under this Act to pay and discharge; and all property in Western Australia held by the trustee or agent on behalf of the company shall be liable to be taken in execution or otherwise made available for the discharge and satisfaction of such obligations.

In case of winding up.

8. IN the event of the winding up of any company, duty shall only be payable on any moneys distributed among the shareholders in excess of the amounts actually paid up on the shares.

When payable.

9. THE duties imposed by this Act are debts due to Her Majesty from the companies by which and the persons by whom they are respectively payable, and shall become due and payable at the times when the returns required by this Act to be made ought respectively to be made.

Duty to be paid before dividend paid.

10. IT shall not be lawful for a company, or for any person on behalf of the company, to distribute any dividend or profits chargeable with duty until the duty payable in respect thereof has been paid.

To be deducted from dividends.

11. EVERY officer of any company who pays the duty under this Act in respect of a dividend shall be entitled to deduct and retain for the use of such company, from the dividend payable to any person entitled thereto, a sum bearing the same proportion

63° VICTORIÆ, No. 6.

Companies Duty.

to the total duty payable by the company upon the dividend as the amount payable to such person bears to the total dividend upon which such duty has been paid.

12. WHEN a dividend is distributed amongst any persons entitled thereto without the duty payable in respect thereof having been first deducted and paid to the Colonial Treasurer, the duty payable in respect of the amount of dividend received by any such person shall be a debt due by such person to Her Majesty.

Remedy against persons receiving dividends when duty is unpaid.

13. EVERY person acting as trustee, agent, receiver, guardian, or committee, or otherwise in a fiduciary capacity, who receives in that capacity dividends on which a duty is imposed by this Act, shall be personally liable to pay such duty, and may, out of the moneys so coming into his hands, retain so much from time to time as shall amount to the duty so paid, and is hereby indemnified against all persons in respect of such payment.

Indemnity to persons in a fiduciary capacity.

14. EVERY company shall, when required thereto in writing by the Colonial Treasurer, permit any person authorised by him in writing under his hand to inspect and take copies of its minute books and all other books containing any entries relating to any dividends declared by the company, or relating to any other matter with respect to which the company is required by this Act to forward returns to the Colonial Treasurer, and, in the case of a company which carries on in Western Australia any insurance business, to inspect and take a copy of any of the books of the company containing any entries relating to any premiums received or charged in account by the company.

Inspection of books.

15. IF any company, or the manager, trustee, or agent of any company, makes default in transmitting to the Colonial Treasurer any return required by this Act, or makes a false declaration in verification of any such return, or contrary to this Act distributes any dividend before the duty payable in respect thereof has been paid, the company shall be liable to pay to Her Majesty treble the amount of duty which is payable under this Act in respect of the matters concerning which such return is required to be made, or in respect of dividends distributed in contravention of this Act.

Penalty for omission to make true returns.

16. IF any company, or any officer, trustee, or agent of any company, makes default in complying with any other provisions of this Act, such company shall incur a penalty not exceeding Five pounds for every day during which such default continues; and every officer of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Penalty for default.

63° VICTORIÆ, No. 6.

Companies Duty.

Punishment for false declaration.

17. IF any statement, declaration, or other document required by this Act is false in any particular to the knowledge of the person who signs the same, such person shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the Court, to a penalty not exceeding Five hundred pounds, and to be imprisoned for any term not exceeding two years.

Trustees, etc., receiving dividends for persons under disability to be personally liable for duty.

18. EVERY person who, as trustee of property held in trust for the separate use of any married woman, or as trustee, receiver, guardian, or committee for any person of unsound mind or under legal disability, receives in Western Australia any dividend on behalf of such married woman or other person, whether such married woman or other person resides in Western Australia or not, shall be liable to pay the duties imposed by this Act in like manner and to the same amount as the married woman would be liable if she were a *feme sole*, or if the property were not held for her separate use, and as such other persons would be liable if not under disability.

The principal, whether married or under disability or not, is also liable if the trustee, agent, etc., does not pay.

19. EVERY person, whether a married woman or not, and whether under disability or not, and whether residing in Western Australia or not, who, through a trustee, agent, receiver, guardian, or committee, receives any dividend on which duty is imposed by this Act, shall be liable to pay the duty through the trustee or other person as aforesaid through whom the dividend is received.

Married women.

20. EVERY married woman having any separate property, or being entitled to any property or profits to her separate use, shall be chargeable with and liable to pay the like duties and in like manner as if she were unmarried.

Discovery to be given.

21. NO company or person shall be entitled to refuse to make any discovery sought to be obtained in any action brought under this Act on the ground that the discovery would entail a forfeiture.

Any returns made by or on behalf of a company under any other Act shall be admissible in evidence in any action brought against the company under this Act.

Secrecy.

22. EVERY officer or other person engaged in the execution of this Act shall maintain the secrecy of all matters that may come to his knowledge in the course of his duty or employment, and shall not, directly or indirectly, communicate any such matter to any person or reveal the same in any way, except for the purpose of carrying into effect the provisions of this Act; and on any default in the premises shall, on conviction, be liable to be imprisoned for any term not exceeding two years.

63° VICTORIÆ, No. 6.

Companies Duty.

23. THE Governor may from time to time make such Regulations as may be necessary for prescribing the particulars to be given in any returns required to be made under this Act, and otherwise for carrying out the purposes of this Act. Regulations.

24. THE duties imposed by this Act shall be paid, collected, and recovered, and payments in respect thereof may be repaid and adjusted as if this Act had been passed and had come into operation on the eleventh day of July, 1899. Duties to be retrospective.

25. THIS Act shall only remain in force until December 31st, 1902. Duration of Act.

In the name and on behalf of the Queen I hereby assent
to this Act.

GERARD SMITH, Governor.