New Zealand.

ANALYSIS.

Title.
1. Short Title and commencement.
2. Division into Parts.

PART I.
PRELIMINARY.
3. Interpretation.
4. Registrar of Companies.
5. Deputy Registrar of Companies.
6. Assistant Registrars of Companies.
7. Official seals.
8. Registers to be kept for purposes of this Act.
10. Inspection, production, and evidence of documents kept by Registrar.
11. Enforcement of duty of company to make returns to Registrar.
12. Regulations.

PART II.
INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO.
Memorandum of Association.
14. Requirements with respect to memorandum.
15. Stamp duty on memorandum.
16. Restriction on alteration of memorandum.
17. Mode in which and extent to which objects of company may be altered.
18. Extending powers of dairy companies to engage in associated industries.

Articles of Association.
19. Articles prescribing regulations for companies.
20. Regulations required in case of unlimited company or company limited by guarantee.
21. Adoption and application of Table A.
22. Printing, stamp, and signature of articles.
23. Alteration of articles by special resolution.

Form of Memorandum and Articles.
24. Statutory forms of memorandum and articles.

Registration.
25. Registration of memorandum and articles.
26. Effect of registration.
27. Power of company to hold lands.
28. Conclusiveness of certificate of incorporation.
29. Registration of unlimited company as limited.

Provisions with respect to Names of Companies.
30. Restriction on registration of companies by certain names.
31. Power to dispense with "Limited" in name of charitable and other companies.
32. Change of name.
General Provisions with respect to Memorandum and Articles.
33. Effect of memorandum and articles.
34. Provision as to memorandum and articles of companies limited by guarantee.
35. Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent.
36. Copies of memorandum and articles to be given to members.
37. Issued copies of memorandum or articles to embody alterations.

Membership of Company.
38. Definition of member.

Reduction of Number of Members below Legal Minimum.
39. Prohibition of carrying on business with fewer than seven members.

Contracts, &c.
40. Form of contracts.
41. Bills of exchange and promissory notes.
42. Execution of instruments by attorney.
43. Power for company to have official seal for use abroad.

Authentication of Documents.
44. Authentication of documents.

PART III.
SHARE CAPITAL AND DEBENTURES.
Prospectus.
45. Dating and registration of prospectus.
46. Specific requirements as to particulars in prospectus.
47. Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.
48. Liability for statements in prospectus.
49. Document containing offer of shares or debentures for sale to be deemed prospectus.

Allotment.
50. Prohibition of allotment unless minimum subscription received.
51. Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar.
52. Effect of irregular allotment.
53. Return as to allotments.

Commissions and Discounts.
54. Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, &c.
55. Statement in balance-sheet as to commissions and discounts.
56. Prohibition of provision of financial assistance by company for purchase of its own shares.

Issue of Redeemable Preference Shares and Shares at Discount.
57. Power to issue redeemable preference shares.
58. Power to issue shares at a discount.

Labour Shares.
59. Power to issue labour shares.

Miscellaneous Provisions as to Share Capital.
60. Power of company to arrange for different amounts being paid on shares.
61. Reserve liability of limited company.
62. Power of company limited by shares to alter its share capital.
63. Notice to Registrar of consolidation of share capital, conversion of shares into stock, &c.
64. Notice of increase of share capital.
65. Power of unlimited company to provide for reserve share capital on re-registration.
66. Power of company to pay interest out of capital in certain cases.

Reduction of Share Capital.
67. Special resolution for reduction of share capital.
68. Application to Court for confirming order, objections by creditors, and settlement of list of objecting creditors.
69. Order confirming reduction and powers of Court on making such order.
70. Registration of order and minute of reduction.
71. Liability of members in respect of reduced shares.
72. Penalty on concealment of name of creditor.

Variation of Shareholders' Rights.
73. Rights of holders of special classes of shares.

Transfer of Shares and Debentures, Evidence of Title, &c.
74. Nature of shares.
75. Transfer not to be registered except on production of instrument of transfer.
24 GEO. V.

Companies

[1933, No. 29.]

191

76. Transfer by personal representative. Rights of personal representative or assignee in bankruptcy.
77. Registration of transfer at request of transferee.
78. Notice of refusal to register transfer.
79. Duties of company with respect to issue of certificates.
80. Certificate to be evidence of title.
81. Evidence of grant of probate.
82. Issue and effect of share warrants to bearer.
83. Penalty for personation of shareholder.

Special Provisions as to Debentures.
84. Right of debenture-holders and shareholders to inspect register of debenture-holders and to have copies of trust deed.
85. Perpetual debentures.
86. Power to reissue redeemed debentures in certain cases.
87. Specific performance of contracts to subscribe for debentures.
88. Payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

PART IV.
REGISTRATION OF CHARGES.

Registration of Charges with Registrar of Companies.
89. Registration of charges created by companies.
90. Unregistered charges to be void in certain cases.
91. Duty of company to register charges existing on property acquired.
92. Register of charges to be kept by Registrar.
93. Endorsement of certificate of registration on debentures.
94. Entry of satisfaction.
95. Rectification of register of charges.
96. Registration of enforcement of security.

Provisions as to Company’s Register of Charges and as to Copies of Instruments creating Charges.
97. Copies of instruments creating charges to be kept by company.
98. Company’s register of charges.
99. Right to inspect copies of instruments creating mortgages and charges and company’s register of charges.

Application of this Part to Companies incorporated outside New Zealand.
100. Application of this Part to charges created, and property subject to charge acquired, by company incorporated outside New Zealand.

Transitional Provision as to Matters required to be registered under this Act, but not under Former Acts.
101. Provision as to charges created, and charges on property acquired, by company before commencement of Act.

PART V.

MANAGEMENT AND ADMINISTRATION.

Registered Office and Name.
102. Registered office of company.
103. Publication of name by company.

Restrictions on Commencement of Business.
104. Restrictions on commencement of business.

Register of Members.
105. Register of members.
106. Index of members of company.
107. Provisions as to entries in register in relation to share warrants.
108. Inspection of register of members.
109. Power to close register.
110. Power of Court to rectify register.
111. Trusts not to be entered on register.
112. Register to be evidence.

Branch Registers.
113. Power for company to keep branch registers.
114. Regulations as to branch registers.
115. Power to extend provisions as to branch registers to other countries.
116. Provisions as to branch registers of British or dominion companies kept in New Zealand.

Annual Return.
117. Annual return to be made by company having a share capital.
118. Annual return to be made by company not having share capital.
119. General provisions as to annual returns.

Meetings and Proceedings.
120. Annual general meeting.
121. Statutory meeting and statutory report.
122. Convening of extraordinary general meeting on requisition.
123. Provisions as to meetings and votes.
124. Representation of companies at meetings of other companies and of creditors.
125. Provisions as to extraordinary and special resolutions.
126. Registration and copies of certain resolutions and agreements.
127. Resolutions passed at adjourned meetings.
128. Minutes of proceedings of meetings and directors.
129. Inspection of minute-books.

Accounts and Audit.
130. Keeping of books of account.
131. Profit and loss account and balance-sheet.
133. Assets consisting of shares in subsidiary companies to be set out separately in balance-sheet.
134. Balance-sheet to include particulars as to subsidiary companies.
135. Meaning of subsidiary company.
136. Accounts to contain particulars as to loans to, and remuneration of, directors, &c.
137. Signing of balance-sheet.
138. Right to receive copies of balance-sheet and auditors' report.
139. Appointment and remuneration of auditors.
140. Disqualification for appointment as auditor.
141. Auditors' report and auditors' right of access to books and right to attend general meetings.

Inspection.
142. Investigation of affairs of company by direction of Supreme Court.
143. Proceedings on report by Inspectors.
144. Power of company to appoint inspectors.
145. Report of inspectors to be evidence.

Directors and Managers.
146. Number of directors.
147. Restrictions on appointment or advertisement of director.
148. Qualification of director or manager.
149. Provisions as to undischarged bankrupts acting as directors.
150. Validity of acts of directors.
151. Register of directors.
152. Limited company may have directors with unlimited liability.

153. Special resolution of limited company making liability of directors unlimited.
154. Statement as to remuneration of directors to be furnished to shareholders.
155. Disclosure by directors of interest in contracts.
156. Provision as to payments received by directors for loss of office or on retirement.
157. Provisions as to assignment of office by directors.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.
158. Provisions as to liability of officers and auditors.

Arrangements and Reconstructions.
159. Power to compromise with creditors and members.
160. Provisions for facilitating reconstruction and amalgamation of companies.
161. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

PART VI.
WINDING-UP.
(i) PRELIMINARY.

Modes of Winding-up.
162. Modes of winding-up.

Contributories.
163. Liability as contributories of present and past members.
164. Definition of contributory.
165. Nature of liability of contributory.
166. Contributories in case of death of member.
167. Contributories in case of bankruptcy of member.
168. Provision as to married women.

(ii) WINDING-UP BY THE COURT.
Cases in which Company may be wound up by Court.
169. Circumstances in which company may be wound up by Court.
170. Definition of inability to pay debts.

Petition for Winding-up and Effects thereof.
171. Provisions as to applications for winding-up.
172. Powers of Court on hearing petition.
24 Geo. V.] Companies [1933, No. 29. 193

173. Power to stay or restrain proceedings against company.
174. Avoidance of dispossession of property, &c., after commence ment of winding-up.
175. Avoidance of attachments, &c.

**Commencement of Winding-up.**

176. Commencement of winding-up by the Court.

**Consequences of Winding-up Order.**

177. Copy of order to be forwarded to Registrar.
178. Actions stayed on winding-up order.
179. Effect of winding-up order.

**Official Assignee in Winding-up.**

180. Official Assignee in Bankruptcy to be Official Assignee for winding-up purposes.
181. Appointment of Official Assignee by Court in certain cases.
182. Deputy Official Assignees.
183. Statement of company's affairs to be submitted to Official Assignee.

**Liquidators.**

185. Power of Court to appoint liquidators.
186. Appointment and powers of provisional liquidator.
187. Appointment, style, &c., of liquidators.
188. Provisions where person other than Official Assignee is appointed liquidator.
189. General provisions as to liquidators.
190. Custody of company's property.
191. Vesting of property of company in liquidator.
192. Powers of liquidator.
193. Exercise and control of liquidator's powers.
194. Books to be kept by liquidator.
195. Payments of liquidator into bank.
196. Audit of liquidator's accounts.
197. Control of Minister of Justice over liquidators.
198. Release of liquidators.

**Committees of Inspection.**

199. Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.
200. Constitution and proceedings of committee of inspection.
201. Powers of Court where no committee of inspection.

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General Powers of Court in case of Winding-up by Court.

202. Power to stay winding-up.
203. Settlement of list of contributories and application of assets.
204. Delivery of property to liquidator.
205. Payment of debts due by contributory to company and extent to which set-off allowed.
206. Power of Court to make calls.
207. Payment into bank of moneys due to company.
208. Order on contributory conclusive evidence.
209. Appointment of special manager.
210. Power to exclude creditors not proving in time.
211. Adjustment of rights of contributories.
212. Inspection of books by creditors and contributories.
213. Power to order costs of winding-up to be paid out of assets.
214. Power to summon persons suspected of having property of company.
215. Power to order public examination of promoters, directors, &c.
216. Power to restrain fraudulent persons from managing companies.
217. Power to arrest absconding contributory.
218. Powers of Court cumulative.
219. Delegation to liquidator of certain powers of Court.
220. Dissolution of company.

(iii) **VOLUNTARY WINDING-UP.**

**Resolutions for and commencement of Voluntary Winding-up.**

221. Circumstances in which company may be wound up voluntarily.
222. Notice of resolution to wind up voluntarily.
223. Commencement of voluntary winding-up.

**Consequences of Voluntary Winding-up.**

224. Effect of voluntary winding-up on business and status of company. Avoidance of transfers, &c., after commencement of voluntary winding-up.
225. Stay of proceedings on commencement of voluntary winding-up.

**Declaration of Solvency.**

226. Statutory declaration of solvency in case of proposal to wind up voluntarily.

**Provisions applicable to a Members' Voluntary Winding-up.**

227. Provisions applicable to a members' winding-up.
228. Power of company to appoint and fix remuneration of liquidators.
229. Power to fill vacancy in office of liquidator.
230. Power of liquidator to accept shares, &c., as consideration for sale of property of company.
231. Duty of liquidator to call general meeting at end of each year.
232. Final meeting and dissolution.

Provisions applicable to a Creditors’ Voluntary Winding-up.
233. Provisions applicable to a creditors’ winding-up.
234. Meeting of creditors.
235. Appointment of liquidator.
236. Appointment of committee of inspection.
237. Fixing of liquidators’ remuneration and cesser of directors’ powers.
238. Power to fill vacancy in office of liquidator.
239. Application of section 230 to a creditors’ voluntary winding-up.
240. Duty of liquidator to call meetings of company and of creditors at end of each year.
241. Final meeting and dissolution.

Provisions applicable to every Voluntary Winding-up.
242. Provisions applicable to every voluntary winding-up.
243. Distribution of property of company.
244. Powers and duties of liquidator in voluntary winding-up.
245. Power of Court to appoint and remove liquidator in voluntary winding-up.
246. Notice by liquidator of his appointment.
247. Arrangement when binding on creditors.
248. Power to apply to Court to have questions determined or powers exercised.
249. Costs of voluntary winding-up.
250. Saving for rights of creditors and contributories.

(iv) WINDING-UP SUBJECT TO SUPERVISION OF COURT.
251. Power to order winding-up subject to supervision.
252. Effect of petition for winding-up subject to supervision.
253. Application of sections 174 and 175 to winding-up subject to supervision.
254. Power of Court to appoint or remove liquidators.
255. Effect of supervision order.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING-UP.
Proof and Ranking of Claims.
256. Debts of all descriptions to be proved.
257. Application of bankruptcy rules in winding-up of insolvent companies.
258. Preferential payments.

Effect of Winding-up on Antecedent and other Transactions.
259. Fraudulent preference.
260. Effect of floating charge.
261. Disclaimer of onerous property.
262. Restriction of rights of creditor as to execution or attachment.
263. Duties of Sheriff as to goods taken in execution.

Offences Antecedent to or in Course of Winding-up.
264. Offences by officers of companies in liquidation.
265. Penalty for falsification of books.
266. Frauds by officers of companies which have gone into liquidation.
267. Liability where proper accounts not kept.
268. Responsibility of directors for fraudulent trading.
269. Power of Court to assess damages against delinquent directors, &c.
270. Prosecution of delinquent officers and members of company.

Supplementary Provisions as to Winding-up.
271. Disqualification for appointment as liquidator.
272. Enforcement of duty of liquidator to make returns, &c.
273. Notification that a company is in liquidation.
274. Books of company to be evidence.
275. Disposal of books and papers of company.
276. Information as to pending liquidations.
277. Resolutions passed at adjourned meetings of creditors and contributories.

Supplementary Powers of Court.
278. Meetings to ascertain wishes of creditors or contributories.
279. Affidavits, &c., in New Zealand and elsewhere.

Rights of the Crown.
280. Certain provisions of this Part to bind the Crown.
### Provisions as to Dissolution

281. Power of Court to declare dissolution of company void.
282. Registrar may strike defunct company off register.
283. Property of dissolved company to be bona vacantia.

### Officers of Court

284. Returns by officers.

### Rules and Fees

285. General rules and fees for winding-up.

### PART VII.

#### Receivers and Managers

286. Disqualification for appointment as receiver.
287. Power to appoint Official Assignee as receiver for debenture-holders or creditors.
288. Notification that receiver or manager appointed.
289. Power of Court to fix remuneration on application of liquidator.
290. Delivery to Registrar of accounts of receivers and managers.
291. Enforcement of duty of receiver to make returns, &c.

### PART VIII.

#### Private Companies

292. Formation of private companies.
293. Application of Act to private companies.
294. Memorandum of association.
295. Certificate of incorporation.
296. Existing companies to register articles.
297. Prohibition of increasing membership beyond twenty-five.
298. Prohibition of issue of share prospectus; and certificate to accompany annual return.
299. Increased capital to be fully subscribed for.
300. Passing of resolutions by entries in minute-book. Registration and copies of certain resolutions of private companies. Special provision as to a creditors' voluntary winding-up.
301. Right to receive copies of balance-sheets and auditors' reports.
302. Additional powers of Court on winding-up.
303. Re-registration of public companies as private companies.
304. Re-registration of private companies as public companies.

### PART IX.

#### Application of Act to Companies formed or registered under former Acts

305. Application of Act to companies formed under former Companies Acts.
306. Application of Act to companies registered under former Companies Acts.
307. Application of Act to companies re-registered under former Companies Acts.
308. Provision as to companies registered under the Joint Stock Companies Act.

### PART X.

#### Companies not formed under this Act authorized to register under this Act

309. Companies capable of being registered.
310. Definition of joint stock company.
311. Requirements for registration by joint stock companies.
312. Requirements for registration by other than joint stock companies.
313. Authentication of statements of existing companies.
314. Registrar may require evidence as to nature of company.
315. Exemption of certain companies from payment of fees.
316. Addition of “Limited” to name.
317. Certificate of registration of existing companies.
318. Vesting of property on registration.
319. Saving of existing rights and liabilities.
320. Continuation of existing actions.
321. Effect of registration under Act.
322. Power to substitute memorandum and articles for deed of settlement.
323. Power of Court to stay or restrain proceedings.
324. Actions stayed on winding-up order.

### PART XI.

#### Winding-up of Unregistered Companies

325. Meaning of unregistered company.
326. Winding-up of unregistered companies.
327. Contributories in winding-up of unregistered company.
328. Power of Court to stay or restrain proceedings.
329. Actions stayed on winding-up order.

PART XII.
Companies incorporated outside New Zealand carrying on business within New Zealand.
331. Companies to which this Part applies.
332. Documents, &c., to be delivered to Registrar by companies carrying on business in New Zealand. Evidence of incorporation of company.
334. Return to be delivered to Registrar where documents, &c., altered.
336. Obligation to state name of company, whether limited, and country where incorporated.
337. Service on company to which this Part applies.
338. Notice of ceasing to carry on business.
339. Penalties.
340. Interpretation of this Part.

PART XIII.
Restrictions on sale of shares or debentures and offers of shares or debentures for sale.
341. Provisions with respect to prospectuses of companies incorporated outside New Zealand inviting subscriptions for shares or offering shares for sale.
342. Requirements as to prospectus.
343. Restrictions on offering of shares for subscription or sale.

PART XIV.
Special provisions as to companies carrying on insurance business (other than Life Insurance).
344. Interpretation. Application of this Part.
Local Companies.
345. Minimum capital required before limited companies commence insurance business.
346. Failure to keep capital intact.
347. Penalty.
348. Insurance companies to publish periodical statement.

Companies incorporated outside New Zealand.
349. Capital required by limited insurance companies incorporated outside New Zealand.

PART XV.
Special provisions as to mining companies.
350. Interpretation.
351. Registration of mining companies.
352. Provisions applied to mining companies.
353. All mining companies deemed to be registered under this Act.
354. Varieties of mining companies.
355. Power to hold mining privileges.

Transfer of Shares.
356. Special provisions as to transfer of shares.
357. Trust on fraudulent transfer incapable of being enforced.

Recovery of Calls and Forfeiture of Shares.
358. Proceedings for the recovery of unpaid calls.
359. Forfeiture of shares for non-payment of calls.
360. When holder of share subject to section 163.
361. Notice of forfeiture to be given.
362. Forfeited shares to be sold by auction.
363. Application of proceeds and recovery of balance.
364. Disposal of unsold shares.
365. Redemption of forfeited shares.
366. Office to be open the day before sale.
367. Extraordinary meeting to be convened when one-third of shares in company forfeited.

Dividends.
368. Unpaid calls to be deducted from dividends.

Accounts.
369. Books to be open to inspection.

Mining Companies incorporated outside New Zealand.
370. Provisions relating to mining companies incorporated outside New Zealand.

General.
371. Agreements with Natives not to be affected.
PART XVI.

MISCELLANEOUS.

Prohibition of Partnerships with more than Twenty Members.

372. Prohibition of partnerships with more than twenty members.

Provisions relating to Banks.

373. Limited application of Act to banks.

Miscellaneous Offences.

374. Penalty for false statement.

375. Penalty for improper use of word “Limited”.

General Provisions as to Offences.

376. Provision with respect to default fines, and meaning of “officer in default”.

377. Prosecution of offences punishable by fine.

378. Saving for privileged communications.

SERVICE OF DOCUMENTS AND LEGAL PROCEEDINGS.

379. Service of documents on company.

380. Costs in actions by certain limited companies.

381. Power of Court to grant relief in certain cases.

382. Power to enforce orders.

Tables and Forms.

383. Power to alter tables and forms.

Repeals and Savings.

384. Repeals and savings.

SCHEDULES.

1933, No. 29.

AN ACT to consolidate and amend the Law relating to Companies.

[20th December, 1933.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Companies Act, 1933 and shall come into operation on the first day of April, nineteen hundred and thirty-four.

2. This Act is divided into Parts, as follows:—

   PART I.—Preliminary. (Sections 3 to 12.)

   PART II.—Incorporation of Companies and Matters incidental thereto. (Sections 13 to 44.)

   PART III.—Share Capital and Debentures. (Sections 45 to 88.)

   PART IV.—Registration of Charges. (Sections 89 to 101.)

   PART V.—Management and Administration. (Sections 102 to 161.)

   PART VI.—Winding-up. (Sections 162 to 285.)

   PART VII.— Receivers and Managers. (Sections 286 to 291.)

   PART VIII.—Private Companies. (Sections 292 to 304.)
PART IX.—Application of Act to Companies formed or registered under Former Acts. (Sections 305 to 308.)

PART X.—Companies not formed under this Act authorized to register under this Act. (Sections 309 to 324.)

PART XI.—Winding-up of Unregistered Companies. (Sections 325 to 330.)

PART XII.—Companies incorporated outside New Zealand carrying on Business within New Zealand. (Sections 331 to 340.)

PART XIII.—Restrictions on Sale of Shares or Debentures and Offers of Shares or Debentures for Sale. (Sections 341 to 343.)

PART XIV.—Special Provisions as to Companies carrying on Insurance Business (other than Life Insurance). (Sections 344 to 349.)

PART XV.—Special Provisions as to Mining Companies. (Sections 350 to 371.)

PART XVI.—Miscellaneous. (Sections 372 to 384.)

PART I.

PRELIMINARY.

3. (1) In this Act, unless the context otherwise requires,—

"Annual return" means the return required to be made, in the case of a company having a share capital, under section one hundred and seventeen, and, in the case of a company not having a share capital, under section one hundred and eighteen of this Act:

"Articles" means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule to the Joint Stock Companies Act, 1860, or in Table A in the First Schedule to the Companies Act, 1882, or in Table A in the First Schedule to the Companies Act, 1903, or in
Table A in the Second Schedule to the Companies Act, 1908, or in Table A in the Second Schedule to this Act:

“Book and paper” and “book or paper” include accounts, deeds, writings, and documents:

“Company” means a company formed and registered under this Act, or an existing company as hereinafter defined:

“Court” means the Supreme Court, and includes a Judge thereof:

“Debenture” includes debenture stock, bonds, and any other securities of a company, whether constituting a charge on the assets of the company or not:

“Default fine” means a fine as provided for in section three hundred and seventy-six of this Act:

“Director” includes any person occupying the position of director, by whatever name called:

“Document” includes summons, notice, order, and other legal process, and registers:

“Existing company” means a company formed and registered under the Joint Stock Companies Act, 1860, the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908:

“General rules” means general rules made under section two hundred and eighty-five of this Act, and includes forms:

“Labour share” means a special share (not being a share in the capital of a company) issued in accordance with section fifty-nine of this Act:

“Memorandum” means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment:

“Minimum subscription” means the amount of the share capital of a company that is required to be subscribed before an allotment of the share capital can be made in accordance with the provisions of section fifty of this Act:

“Prescribed” means prescribed by this Act or by general rules or regulations under this Act:

“Private company” means a company formed and registered under Part VIII of this Act, or
under Part V of the Companies Act, 1908, or under Part IV of the Companies Act, 1903:

“Prospectus” means any prospectus, notice, circular, advertisement, or other invitation offering to the public for subscription or purchase any shares or debentures of a company:

“Registrar” means the Registrar of Companies, and includes the Deputy Registrar, “Deputy Registrar” means the Deputy Registrar of Companies, and “Assistant Registrar” means an Assistant Registrar of Companies under this Act:

“Share” means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied, but does not include a labour share as hereinbefore defined:

“Table A” means Table A in the Second Schedule to this Act.

(2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

4. For the purposes of this Act there shall from time to time be appointed an officer of the Public Service to be called the Registrar of Companies.

5. (1) There shall also from time to time be appointed an officer of the Public Service to be called the Deputy Registrar of Companies, who shall, under the control of the Registrar, perform such general official duties as he is called upon to perform by the Registrar.

(2) On the occurrence from any cause of a vacancy in the office of Registrar (whether by reason of death, resignation, or otherwise), and in case of the absence from duty of the Registrar (from whatever cause arising), and so long as such vacancy or absence continues, the Deputy Registrar shall have and may exercise all the powers, duties, and functions of the Registrar.

(3) The fact that the Deputy Registrar exercises any power, duty, or function as aforesaid shall be conclusive evidence of his authority so to do and no person shall
be concerned to inquire whether the occasion has arisen requiring or authorizing him so to do.

6. (1) There shall also from time to time be appointed as many officers of the Public Service, to be called Assistant Registrars of Companies, as may be found necessary for the purposes of this Act.

(2) Subject to the control of the Registrar, every Assistant Registrar shall have and may exercise all the duties and powers of the Registrar. The fact that an Assistant Registrar exercises any powers or functions conferred by this Act on the Registrar shall be conclusive evidence of his authority so to do.

7. There shall be an official seal in the custody of the Registrar, and there shall also be an official seal in the custody of each Assistant Registrar.

8. (1) The Registrar shall cause to be kept in the office of each Assistant Registrar such registers as he considers necessary, in which shall be recorded all matters required by this Act or by rules or regulations under this Act to be recorded by the Registrar.

(2) All such matters relating to any company incorporated outside New Zealand shall be recorded in the office of the Assistant Registrar at Wellington, and shall at all times be retained in that office.

(3) Subject to the provisions of the last preceding subsection, the Registrar may in his discretion direct the transfer of any register from the office of any Assistant Registrar to any other such office, and may also direct that the records relating to any company be transferred from any such office to any other such office:

Provided that the memorandum of association and all other records relating to any company shall at all times be kept recorded in the same office.

(4) Forthwith after the transfer of any register or of the records relating to any company pursuant to this section the Registrar shall give notice thereof in the Gazette.

(5) Whenever any act is by this Act or by rules or regulations under this Act directed to be done to or by the Registrar in respect of any company (whether incorporated in New Zealand or elsewhere) it shall, unless the context otherwise requires, be done to or by the Assistant Registrar in whose office the records relating to such company are kept.
9. (1) There shall be paid to the Registrar in respect of the several matters mentioned in the Table set out in the First Schedule to this Act, the several fees therein specified.

(2) Where the Registrar or any other officer is empowered by this Act to do any act for which a fee is payable, he may refuse to do such act until such fee is paid.

(3) All fees paid to the Registrar under this Act shall be paid into the Public Account, and shall form part of the Consolidated Fund.

10. (1) Any person may inspect the documents kept by the Registrar or any Assistant Registrar on payment of such fees as may be prescribed.

(2) Any person may, on payment of the prescribed fee, require a certificate of the incorporation of any company, or a copy of or extract from any other document or any part of any other document, to be given or certified by the Registrar or an Assistant Registrar respectively under his hand and seal.

(3) No process for compelling the production of any document kept by the Registrar or an Assistant Registrar shall issue from any Court, except with the leave of that Court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the Court.

(4) A copy of or extract from any document kept and registered at the office of the Registrar or of any Assistant Registrar, certified to be a true copy under the hand and seal of the Registrar or of such Assistant Registrar (whose official position and signature it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

11. (1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver, or send to the Registrar any return, account, or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the Court may, on an application made to the Court by any member or creditor of the company or by the Registrar, make an order directing the company and any officer thereof to make
good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.

12. The Governor-General may from time to time, by Order in Council, make regulations for the due administration of this Act and for the conduct of all persons concerned in such administration.

PART II.

INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO.

Memorandum of Association.

13. (1) Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability.

(2) Such a company may be—

(a) A company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed “a company limited by shares”); or

(b) A company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed “a company limited by guarantee”); or

(c) A company not having any limit on the liability of its members (in this Act termed “an unlimited company”).
14. (1) The memorandum of every company must state—

(a) The name of the company, with "Limited" as the last word of the name in the case of a company limited by shares or by guarantee; and

(b) The objects of the company.

(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital—

(a) The memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount:

(b) No subscriber of the memorandum may take less than one share:

(c) Each subscriber must write opposite to his name the number of shares he takes.

(5) The memorandum of every company must be signed by each subscriber or his duly authorized agent in the presence of at least one witness, who must attest the signature, and must add to his signature his description and address.

(6) In any case where a corporation, whether a company within the meaning of this Act or not, is a subscriber of the memorandum of a company, the memorandum may be signed on behalf of such corporation by any person or persons acting under its authority, express or implied, and it shall not be necessary in any such case for the seal of such corporation to be affixed to the memorandum.
15. Subject to any special exemption in any Act, the memorandum shall be charged with stamp duty as if it were a deed not otherwise charged under the Stamp Duties Act, 1923.

16. A company may not alter the conditions contained in its memorandum except in the cases, in the mode, and to the extent for which express provision is made in this Act.

17. (1) Subject to the provisions of this section, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company so far as may be required to enable it—

(a) To carry on its business more economically or more efficiently; or

(b) To attain its main purpose by new or improved means; or

(c) To enlarge or change the local area of its operations; or

(d) To carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(e) To restrict or abandon any of the objects specified in the memorandum; or

(f) To sell or dispose of the whole or any part of the undertaking of the company; or

(g) To amalgamate with any other company or body of persons.

(2) The alteration shall not take effect until, and except in so far as, it is confirmed on petition by the Court.

(3) Before confirming the alteration the Court must be satisfied—

(a) That sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) That, with respect to every creditor who in the opinion of the Court is entitled to object and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained, or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court.
Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company shall be expended in any such purchase.

(6) An office copy of the order confirming the alteration, together with a printed or typewritten copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register the copy so delivered and shall certify the registration under his hand and seal, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum as so altered shall be the memorandum of the company. The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

18. Notwithstanding anything to the contrary in this Act, or in the memorandum or articles of any company having for its object or for one of its objects the manufacture of butter or of cheese, it shall be lawful for such company, without complying with the provisions of this Act relating to the alteration of the
memorandum or articles of companies, to do all or any of the following things, that is to say:

(a) To carry on the business of the manufacture of rennet, casein, or sugar of milk; or of butter-boxes or cheese-crates; or of any other article or product connected with or required for the dairying industry:

(b) To acquire shares in, or to guarantee the obligations of, or otherwise to assist or promote, any other company, or any company proposed to be formed under this Act, having for its object or for one of its objects—

(i) The manufacture of any article or product as aforesaid; or

(ii) The exporting, marketing, and disposal of any primary products; or

(iii) The erection and building of cool stores and freezing-works; or

(iv) The purchase of any machinery and plant in connection with any cool stores or freezing-works; or

(v) The carrying-on of the business of cool storage and refrigerating; or

(vi) The carrying-on of the business of insurance or guarantee against loss, damage, or risk of any kind whatever, except life insurance.

Articles of Association.

19. There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers of the memorandum and prescribing regulations for the company.

20. (1) In the case of an unlimited company the articles, if the company has a share capital, must state the amount of share capital with which the company proposes to be registered.

(2) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has not a share capital, must state the number of members with which the company proposes to be registered.

(3) Where a company not having a share capital has increased the number of its members beyond the
registered number, it shall, within fifteen days after the increase was resolved on or took place, give to the Registrar notice of the increase, and the Registrar shall record the increase. If default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

21. (1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

22. (1) Articles must—

(a) Be printed or typewritten:

(b) Be divided into paragraphs numbered consecutively:

(c) Be signed by each subscriber of the memorandum or his duly authorized agent in the presence of at least one witness, who must attest the signature, and must add to his signature his description and address.

(2) Subject to any special exemption in any Act, articles shall be charged with stamp duty as if they were contained in a deed not otherwise charged under the Stamp Duties Act, 1923.

23. (1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Act, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

Form of Memorandum and Articles.

24. The form of—

(a) The memorandum of association of a company limited by shares;

(b) The memorandum and articles of association of a company limited by guarantee and not having a share capital;
(c) The memorandum and articles of association of a company limited by guarantee and having a share capital; and

(d) The memorandum and articles of association of an unlimited company having a share capital—shall be respectively in accordance with the forms set out in Tables B, C, D, and E in the Second Schedule to this Act, or as near thereto as circumstances admit.

Registration.

25. The memorandum and the articles, if any, shall be delivered to the Registrar, who shall retain and register them.

26. (1) On the registration of the memorandum of a company the Registrar shall certify under his hand and seal that the company is incorporated, and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

27. A company incorporated under this Act shall have power to hold lands:

Provided that a company formed for the purpose of promoting art, science, religion, charity, or any other like object not involving the acquisition of gain by the company or by its individual members, shall not, without the license of the Governor-General in Council, hold more than two acres of land; but the Governor-General in Council may by license empower any such company to hold lands in such quantity and subject to such conditions as he thinks fit.

28. (1) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that
the association is a company authorized to be registered and duly registered under this Act.

(2) A statutory declaration by a solicitor of the Supreme Court engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such a declaration as sufficient evidence of compliance.

29. (1) Subject to the provisions of this section, a company registered as unlimited may register under this Act as limited, or a company already registered as a limited company may re-register under this Act, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into by, to, with, or on behalf of the company before the registration, and those rights or liabilities may be enforced in manner provided by Part X of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section the Registrar shall close the former registration of the company, and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but save as aforesaid the registration shall take place in the same manner and shall have effect as if it were the first registration of the company.

(3) Notice of the registration of any unlimited company as a limited company shall be forthwith published by the Registrar in the Gazette, at the expense of the company.

Provisions with respect to Names of Companies.

30. (1) No company shall be registered by a name which—

(a) Is identical with that of a company carrying on business in New Zealand (whether registered in New Zealand or not), or of any other corporate body registered in New Zealand under any Act, or so nearly resembles that name as to be calculated to deceive, except where such company or other corporate body, as the case
may be, signifies its consent in such manner as the Registrar requires, and the Registrar is satisfied that registration of the company by the proposed name will not be contrary to the public interest; or

(b) Contains the words "Chamber of Commerce", unless the company is a company which is to be registered under a license granted in pursuance of the next succeeding section without the addition of the word "Limited" to its name; or

(c) Contains the words "Building Society".

(2) Except with the consent of the Governor-General in Council or as expressly provided in any Act other than this Act, no company shall be registered by a name which—

(a) Contains the word "Royal", or "Imperial", or "National", or "State", or any word which in the opinion of the Registrar suggests, or is calculated to suggest, the patronage of His Majesty or of any member of the Royal Family or of the Governor-General, or connection with His Majesty's Government or any department thereof; or

(b) Contains the word "Municipal" or "Chartered", or in the opinion of the Registrar suggests, or is calculated to suggest, connection with any municipality or other local authority, or with any society or body incorporated by Royal Charter; or

(c) Contains the word "Bank", "Bankers", "Banking", "Co-operative", "Trust", or "Trustee", or the words "Stock Exchange".

(3) Except with the consent of the Court, no company shall be registered by a name which, in the opinion of the Registrar, is contrary to public policy.

31. (1) Where it is proved to the satisfaction of the Governor-General that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Governor-General may by Order in Council direct that
the association may be registered as a company with limited liability, without the addition of the word “Limited” to its name, and the association may be registered accordingly.

(2) An Order in Council under this section may be issued on such conditions and subject to such regulations as the Governor-General in Council thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Governor-General in Council so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word “Limited” as any part of its name, and of publishing its name, and of sending lists of members to the Registrar.

(4) An Order in Council issued under this section may at any time be in like manner revoked, and upon revocation the Registrar shall enter the word “Limited” at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section.

Provided that, before an Order in Council is so revoked, notice in writing of intention to revoke the Order in Council shall be given by the Registrar to the association, and the association shall be afforded an opportunity of submitting to the Registrar its objections to the revocation, and the Registrar shall, before the revocation of the Order in Council, forward such objections, with his report thereon, to the Minister of Finance.

(5) Where the name of the association contains the words “Chamber of Commerce”, the notice to be given as aforesaid shall include a statement of the effect of the provisions of subsections three and four of the next succeeding section.

32. (1) A company may, by special resolution and with the approval of the Registrar signified in writing, change its name.

(2) If a company, through inadvertence or otherwise, is, after the commencement of this Act, registered by a name which is in contravention of section thirty of this Act, the company shall change its name by extraordinary resolution within a period of six weeks from the date
of its being required by the Registrar so to do, or such longer period as the Registrar may think fit to allow.

(3) Where an Order in Council issued in pursuance of the last preceding section in respect of a company the name of which contains the words "Chamber of Commerce" is revoked, the company shall, within a period of six weeks from the date of the revocation, or such longer period as the Governor-General in Council may think fit to allow, by extraordinary resolution change its name to a name which does not contain those words.

(4) If a company makes default in complying with the requirements of subsection two or subsection three of this section, it shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

(5) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case. The Registrar shall forthwith after the alteration of the register publish in the Gazette, at the expense of the company, a notice of the change of its name, and such notice shall be conclusive evidence of the change to which it relates.

(6) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

General Provisions with respect to Memorandum and Articles.

33. (1) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been executed as a deed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company of the nature of a specialty debt.
34. (1) In the case of a company limited by guarantee and not having a share capital, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void, but nothing herein shall affect the power of a company to issue debentures carrying a rate of interest varying with the profits.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.

35. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company:

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

36. (1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, and a copy of any Act of Parliament which alters the memorandum, subject to payment, in the case of a copy of the memorandum and of the articles, of two shillings or such less sum as the company may prescribe, and, in the case of a copy of an Act, of such sum not exceeding the published price thereof as the company may require.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a fine not exceeding five pounds.
37. (1) Where an alteration is made in the memorandum or articles of a company, every copy of the memorandum or articles issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum or articles which are not in accordance with the alteration, it shall be liable to a fine not exceeding one pound for each copy so issued, and every officer of the company who is in default shall be liable to the like penalty.

Membership of Company.

38. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Reduction of Number of Members below Legal Minimum.

39. If at any time the number of members of a company is reduced below seven, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with fewer than seven members shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

Contracts, &c.

40. (1) Contracts on behalf of a company may be made as follows:

(a) A contract which if made between private persons would be by law required to be by deed may be made on behalf of the company in writing under the common seal of the company:

(b) A contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith,
may be made on behalf of the company in writing signed by any person acting under its authority, express or implied:

(c) A contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

41. A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

42. (1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute instruments on its behalf in any place in or beyond New Zealand.

   (2) An instrument executed by such an attorney on behalf of the company shall bind the company, and if executed as a deed shall have the same effect as if it were under the common seal of the company.

   (3) The provisions of Part XI of the Property Law Act, 1908, shall, with the necessary modifications, apply with respect to any power of attorney executed by a company to the same extent as if the company were a person and as if the commencement of the winding-up of the company were the death of a person within the meaning of the said Part XI.

43. (1) A company whose objects require or comprise the transaction of business beyond New Zealand may, if authorized by its articles, have for use in any territory, district, or place not situate in New Zealand, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of the territory, district, or place where it is to be used.
(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district, or place may, by writing under its common seal, authorize any person appointed for the purpose in that territory, district, or place to affix the official seal to any deed or other document to which the company is party in that territory, district, or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent’s authority has been given to the person dealing with him.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument to which the seal is affixed the date on which and the place at which it is affixed.

Authentication of Documents.

44. A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorized officer of the company, and need not be under its common seal.

PART III.

SHARE CAPITAL AND DEBENTURES.

Prospectus.

45. (1) A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorized in writing, shall be delivered to the Registrar for registration on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so delivered for registration.
Specific requirements as to particulars in prospectus.

19 & 20 Geo. V, c. 23, s. 35 (Imperial): 1908, No. 26, s. 75 (N.Z.)

(3) The Registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been delivered for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so delivered, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so delivered.

46. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state the matters specified in Part I of the Third Schedule to this Act, and set out the reports specified in Part II of that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of the said Schedule.

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) It shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section:

Provided that this subsection shall not apply if it is shown that the form of application was issued either—

(a) In connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(b) In relation to shares or debentures which were not offered to the public.

(4) If any person acts in contravention of the provisions of the last preceding subsection he shall be liable to a fine not exceeding five hundred pounds.

(5) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus...
shall not incur any liability by reason of the non-compliance or contravention, if—

(a) As regards any matter not disclosed, he proves that he was not cognizant thereof; or

(b) He proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

(c) The non-compliance or contravention was in respect of matters which in the opinion of the Court dealing with the case were immaterial, or was otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph fifteen of Part I of the Third Schedule to this Act, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(6) This section shall not apply to the issue to existing members or debenture-holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(7) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

47. A company limited by shares, or a company limited by guarantee and having a share capital, shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

48. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company—

(a) Every person who is a director of the company at the time of the issue of the prospectus; and
(b) Every person who has authorized himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time; and

(c) Every person being a promoter of the company; and

(d) Every person who has authorized the issue of the prospectus, shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved—

(i) That having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(ii) That the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(iii) That after the issue of the prospectus and before allotment thereunder he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor; or

(iv) That—

(a) As regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and

(b) As regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a
correct and fair copy of or extract from the report or valuation; and

(c) As regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document:

Provided that a person shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making any such statement, report, or valuation as is mentioned in subparagraph (b) of paragraph (iv) of this subsection was competent to make it.

(2) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who, by reason of his being a director or promoter or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(4) For the purposes of this section—

The expression "promoter" means a promoter who was a party to the preparation of the
prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company:

The expression "expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

49. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of misstatements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—

(a) That an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) That at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section forty-five of this Act as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company, and section forty-six of this
Act as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus—

(a) The net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and

(b) The place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorized in writing.

Allotment.

50. (1) No allotment shall be made of any share capital of a company offered to the public for subscription unless at least sixty per centum of the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in paragraph five in Part I of the Third Schedule to this Act has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company. For the purposes of this subsection, a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash.

(3) The amount payable on application on each share shall not be less than ten per centum of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of four months after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them.
without interest, and, if any such money is not so repaid within five months after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of such period of five months:

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection three thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

51. (1) A company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least three days before the first allotment of either shares or debentures there has been delivered to the Registrar for registration a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company, or by his agent authorized in writing, in the form and containing the particulars set out in the Fourth Schedule to this Act.

(2) If a company acts in contravention of this section, the company and every director of the company who knowingly authorizes or permits the contravention shall be liable to a fine not exceeding one hundred pounds.

52. (1) An allotment made by a company to an applicant in contravention of the provisions of the last two preceding sections shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.
24 GEO. V. | Companies | [1933, No. 29.]

(2) If any director of a company knowingly contravenes, or permits or authorizes the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

53. (1) Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, the company shall within one month thereafter deliver to the Registrar for registration—

(a) A return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and

(b) In the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above mentioned is not reduced to writing, the company shall within one month after the allotment deliver to the Registrar for registration the prescribed particulars of the contract, stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Duties Act, 1923.

(3) If default is made in complying with this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall
be liable to a fine not exceeding fifty pounds for every day during which the default continues:

Provided that, in case of default in delivering to the Registrar within one month after the allotment any document required to be delivered by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to deliver the document was accidental or due to inadvertence, or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the Court may think proper.

Commissions and Discounts.

54. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if—

(a) The payment of the commission is authorized by the articles; and

(b) The commission paid or agreed to be paid does not exceed ten per centum of the price at which the shares are issued or the amount or rate authorized by the articles, whichever is the less; and

(c) The amount or rate per centum of the commission paid or agreed to be paid is—

(i) In the case of shares offered to the public for subscription, disclosed in the prospectus; or

(ii) In the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus, and delivered before the payment of the commission to the Registrar for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and
(d) The number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase-money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase-money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission the payment of which, if made directly by the company, would have been legal under this section.

(5) If default is made in complying with the provisions of this section relating to the delivery to the Registrar of the statement in the prescribed form, the company and every officer of the company who is in default shall be liable to a fine not exceeding twenty-five pounds.

55. (1) Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.
56. (1) Subject as provided in this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security, or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company:

Provided that nothing in this section shall be taken to prohibit—

(a) Where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business:

(b) The provision by a company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully-paid shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company:

(c) The making by a company of loans to persons, other than directors, bona fide in the employment of the company with a view to enabling those persons to purchase fully-paid shares in the company to be held by themselves by way of beneficial ownership.

(2) The aggregate amount of any outstanding loans made under the authority of paragraphs (b) and (c) of the proviso to subsection one of this section shall be shown as a separate item in every balance-sheet of the company.

(3) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

Issue of Redeemable Preference Shares and Shares at Discount.

57. (1) Subject to the provisions of this section, a company limited by shares may, if so authorized by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed:
Provided that—

(a) No such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend, or out of the proceeds of a fresh issue of shares made for the purposes of the redemption:

(b) No such shares shall be redeemed unless they are fully paid:

(c) Where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "The Capital Redemption Reserve Fund", a sum equal to the amount applied in redeeming the shares, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the Capital Redemption Reserve Fund were paid-up share capital of the company:

(d) Where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption, must have been provided for out of the profits of the company before the shares are redeemed.

(2) There shall be included in every balance-sheet of a company which has issued redeemable preference shares a statement specifying what part of the issued capital of the company consists of such shares, and the date on or before which those shares are, or are to be liable, to be redeemed. If a company fails to comply with the provisions of this subsection, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and
accordingly the share capital of the company shall not for the purposes of any registration fee, license duty, or other duty be deemed to be increased by the issue of shares in pursuance of this subsection:

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to any fee or duty as aforesaid, be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of the last preceding subsection, the Capital Redemption Reserve Fund may, notwithstanding anything in this section, be applied by the company, up to an amount equal to the nominal amount of the shares so issued, in paying up unissued shares of the company to be issued to members of the company as fully-paid bonus shares.

58. (1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued:

Provided that—

(a) The issue of the shares at a discount must be authorized by resolution passed in general meeting of the company, and must be sanctioned by the Court:

(b) The resolution must specify the maximum rate of discount at which the shares are to be issued:

(c) Not less than one year must at the date of the issue have elapsed since the date on which the company was entitled to commence business:

(d) The shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Where a company has passed a resolution authorizing the issue of shares at a discount, it may apply to the Court for an order sanctioning the issue, and on any such application the Court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.
(3) Every prospectus relating to the issue of the shares, and every balance-sheet issued by the company subsequently to the issue of the shares, must contain particulars of the discount allowed on the issue of the shares, or of so much of that discount as has not been written off at the date of the issue of the document in question. If default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

Labour Shares.

59. (1) Subject to the provisions of this section, a company may, unless expressly prohibited from so doing by its memorandum, issue special shares (in this section referred to as labour shares) to persons for the time being employed in the service of the company.

(2) With respect to labour shares issued as aforesaid the following special provisions shall apply:—

(a) They shall have no nominal value, and shall not form part of the capital of the company.

(b) They shall be numbered consecutively, commencing with the number one.

(c) They shall not be transferable, save in accordance with the provisions (if any) in that behalf of the articles of the company.

(d) They shall entitle the holders thereof to attend and vote at meetings of shareholders, and to share in the profits of the company, or in its assets in the event of its being wound up, to such extent and in such manner as may be determined by the memorandum or articles of the company.

(e) Save as may be expressly provided herein or by the memorandum or articles of the company, the holders of labour shares shall have and enjoy all the privileges of other shareholders.

(3) If the holder of any labour shares ceases to be employed in the service of the company (whether by reason of death or otherwise) he shall be deemed to have surrendered his shares, and in such case there shall be payable to him or his personal representatives, as the case may be, either in cash or in capital shares, the value of those shares computed in accordance with the articles of the company.
(4) A company issuing labour shares may, if authorized so to do by its articles, issue capital shares in payment or satisfaction wholly or in part of any share in the profits of the company to which the holders of labour shares or their personal representatives may by virtue of those labour shares from time to time become entitled under the articles of the company.

(5) A company having issued labour shares shall cause to be entered in its register of members from time to time—

(a) Full particulars as to all labour shares issued by it, with the names and addresses of the persons to whom such shares have been issued:

(b) Particulars as to all labour shares surrendered to the company, and of the amounts paid by the company to the shareholders on such surrender:

(c) Any other consideration given by the company in respect of any surrender of labour shares as aforesaid.

(6) A copy or abstract of such particulars shall in each year be forwarded to the Registrar with the annual return required to be forwarded pursuant to section one hundred and seventeen of this Act.

(7) Nothing in section fifty-three or in section two hundred and ninety-seven of this Act shall apply with respect to labour shares issued pursuant to this section, or to the holders of such shares.

Miscellaneous Provisions as to Share Capital.

60. A company, if so authorized by its articles, may do any one or more of the following things—

(a) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares:

(b) Accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up:

(c) Pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.
61. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Provided that any mortgage or charge granted or created by a limited company on the whole or any part of its uncalled capital, whether before or after the passing of any such special resolution, shall have the same validity, force, and effect as if no such special resolution had been passed, save that, in the case of a mortgage or charge granted or created after the passing of such special resolution, the right of any person entitled by virtue of such mortgage or charge to require the calling-up of any uncalled capital affected by such special resolution shall be deferred until the event of the company being wound up.

62. (1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorized by its articles, may alter the conditions of its memorandum as follows: that is to say, it may—

(a) Increase its share capital by new shares of such amount as it thinks expedient;

(b) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(c) Convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;

(d) Subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(e) Cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person,
and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

63. (1) If a company having a share capital has—

(a) Consolidated and divided its share capital into shares of larger amount than its existing shares; or

(b) Converted any shares into stock; or

(c) Reconverted stock into shares; or

(d) Subdivided its shares or any of them; or

(e) Redeemed any redeemable preference shares; or

(f) Cancelled any shares, otherwise than in connection with a reduction of share capital under section sixty-seven of this Act,

it shall within one month after so doing give notice thereof to the Registrar specifying, as the case may be, the shares consolidated, divided, converted, subdivided, redeemed, or cancelled, or the stock reconverted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

64. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall, within fifteen days after the passing of the resolution authorizing the increase, give to the Registrar notice of the increase, and the Registrar shall record the increase.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the Registrar together with the notice a printed or typewritten copy of the resolution authorizing the increase.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.
65. (1) An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely:

(a) Increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up:

(b) Provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

(2) Notwithstanding anything in the last preceding subsection, any mortgage or charge granted or created by the company, whether before or after the passing of the resolution, on any part of its capital which by virtue of paragraph (a) or paragraph (b) of that subsection is subject to the condition that it is not capable of being called up except in the event and for the purposes of the company being wound up shall have the same validity, force, and effect as if no such condition existed, save that, in the case of a mortgage or charge granted or created after the passing of the resolution, the right of any person entitled by virtue of such mortgage or charge to require the calling-up of any uncalled capital affected by such condition shall be deferred until the event of the company being wound up.

66. (1) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant:

Provided that—

(a) No such payment shall be made unless it is authorized by the articles or by special resolution:
(b) No such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Court:

(c) Before sanctioning any such payment the Court may, at the expense of the company, appoint a person to inquire and report to it as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry:

(d) The payment shall be made only for such period as may be determined by the Court, and that period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided:

(e) The rate of interest shall in no case exceed five per centum per annum or such other rate as may for the time being be prescribed by the Governor-General by Order in Council:

(f) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid:

(g) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

(2) If default is made in complying with paragraph (g) of the proviso to subsection one of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds.

Reduction of Share Capital.

67. (1) Subject to confirmation by the Court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorized by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may—

(a) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(b) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up
share capital which is lost or unrepresented by available assets; or

(c) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company; and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act referred to as "a resolution for reducing share capital''.

68. (1) Where a company has passed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, the following provisions shall have effect, subject nevertheless to the next succeeding subsection:---

(a) Every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(b) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(c) Where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by
Order confirming reduction and powers of Court on making such order.
19 & 20 Geo. V, c. 23, s. 57 (Imperial); 1908, No. 26, ss. 44 (2), (3), 54 (N.Z.)

appropriating, as the Court may direct, the following amount:—

(i) If the company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim:

(ii) If the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection two of this section shall not apply as regards any class or any classes of creditors.

69. (1) The Court, if satisfied, with respect to every creditor of the company who under the last preceding section is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the Court makes any such order, it may—

(a) If for any special reason it thinks proper so to do, make an order directing that the company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof the words “and reduced”; and

(b) Make an order requiring the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to giving proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.
(3) Where a company is ordered to add to its name the words "and reduced", those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the company.

70. (1) The Registrar, on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute approved by the Court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

(6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section thirty-seven of this Act.

71. (1) In the case of a reduction of share capital a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be:

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings
for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then—

(a) Every person who was a member of the company at the date of the registration of the order for reduction and minute shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and

(b) If the company is wound up, the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding-up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

72. If any director, manager, secretary, or other officer of the company—

(a) Wilfully conceals the name of any creditor entitled to object to the reduction; or

(b) Wilfully misrepresents the nature or amount of the debt or claim of any creditor; or

(c) Aids, abets, or is privy to any such concealment or misrepresentation as aforesaid,—

he shall be guilty of a crime, and shall be liable on conviction to imprisonment for a term not exceeding three years.

Variation of Shareholders’ Rights.

73. (1) If, in the case of a company the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorizing the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares
of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per centum of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the Court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the Court.

(2) An application under this section must be made within ten days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation, and shall, if not so satisfied, confirm the variation.

(4) The decision of the Court on any such application shall be final.

(5) The company shall within fifteen days after the making of an order by the Court on any such application forward a copy of the order to the Registrar, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The expression “variation” in this section includes abrogation and the expression “varied” shall be construed accordingly.

Transfer of Shares and Debentures, Evidence of Title, &c.

74. (1) The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.
75. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company:

Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture-holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

76. (1) A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

(2) Subject to any provisions in that behalf in the articles of a company, where the registered holder of any share dies or becomes bankrupt his personal representatives or the assignee of his estate, as the case may be, shall, upon the production of such evidence as may from time to time be properly required by the directors in that behalf, be entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the company, or to voting, or otherwise), as the registered holder would have been entitled to if he had not died or become bankrupt. Where two or more persons are jointly entitled to any share in consequence of the death of the registered holder they shall, for the purposes of the articles of the company and subject to any provisions therein, be deemed to be joint holders of the share.

77. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

78. (1) If a company refuses to register a transfer of any shares or debentures, the company shall, within two months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

(2) If default is made in complying with this section, or if the company, not having refused to register any
transfer of shares or debentures as aforesaid, neglects to register such transfer within two months after the date on which the transfer was lodged with the company, the company and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

79. (1) Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the date on which a transfer of any such shares, debentures, or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide. The expression "transfer" for the purpose of this subsection means a transfer duly stamped, and otherwise valid, and does not include such a transfer as the company is for any reason entitled to refuse to register and does not register.

(2) If any company on which a notice has been served requiring the company to make good any default in complying with the provisions of the last preceding subsection fails to make good the default within ten days after the service of the notice, the company and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding five pounds for every day during which the default continues, and the Court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

80. A certificate under the common seal of the company, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares.

81. The production to a company of any document which is by law sufficient evidence of probate of the will, or letters of administration of the estate, or
confirmation as executor, of a deceased person having been granted to some person shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of the grant.

**82.** (1) A company limited by shares, if so authorized by its articles may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.

(2) Such a warrant as aforesaid is in this Act termed a "share warrant".

(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.

**83.** If any person falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, he shall be guilty of a crime, and shall be liable on conviction to imprisonment for a term not exceeding fourteen years.

**Special Provisions as to Debentures.**

**84.** (1) Every register of holders of debentures of a company shall, except when duly closed, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection. For the purposes of this subsection a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures, or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole thirty days in any year, as may be therein specified.
(2) Every registered holder of debentures and every holder of shares in a company may require a copy of the register of the holders of debentures of the company or any part thereof on payment of sixpence for every hundred words required to be copied.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of five shillings or such less sum as may be prescribed by the company, or, where a printed copy of the trust deed is not available, on payment of sixpence for every hundred words required to be copied.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and further shall be liable to a default fine of two pounds.

(5) Where a company is in default as aforesaid, the Court may by order compel an immediate inspection of the register, or direct that the copies required shall be sent to the person requiring them.

85. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Act, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

86. (1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, then—

(a) Unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or

(b) Unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,—

the company shall have, and shall be deemed always to have had, power to reissue the debentures, either by reissuing the same debentures or by issuing other debentures in their place.
(2) On a reissue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has power to reissue debentures which have been redeemed, particulars with respect to the debentures which can be so reissued shall be included in every balance-sheet of the company.

(4) Where a company has either before or after the commencement of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(5) The reissue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the reissue or issue was made before or after the commencement of this Act, shall be treated as the issue of a new debenture for the purposes of stamp duty (if any), but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

(6) Where any debentures which have been redeemed before the date of the commencement of this Act are reissued subsequently to that date, the reissue of the debentures shall not prejudice any right or priority which any person would have had under or by virtue of any mortgage or charge created before the date of the commencement of this Act if section two of the Companies Amendment Act, 1910, had been enacted in this Act instead of this section.

87. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

88. (1) Where either a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of Part VI of this Act relating to preferential payments

See Reprint of Statutes, Vol. I, p. 983

Specific performance of contracts to subscribe for debentures. 19 & 20 Geo. V, c. 23, s. 76 (Imperial)

Payment of certain debts out of assets subject to floating charge in priority to claims under the charge. Imp. s. 78 1928, No. 25, s. 4 (N.Z.)
to be paid in priority to all other debts shall be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part VI of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

PART IV.
Registration of Charges.

Registration of Charges with Registrar of Companies.

89. (1) Where after the commencement of this Act a company creates any charge to which this section applies, it shall be the duty of the company within the time prescribed by subsection three of this section to cause a copy of the instrument by which the charge is created or evidenced to be delivered to the Registrar for registration in manner required by this Act. Every such copy shall be accompanied by a statutory declaration as to the execution of the instrument and verifying the copy as a true copy:

Provided that if the instrument by which the charge is created or evidenced is registered under any Act other than this Act it shall be sufficient compliance with the requirements of this subsection if, within the time prescribed as aforesaid, particulars of the instrument sufficient to identify it, and such other particulars (if any) as may be prescribed, are delivered to the Registrar for registration.

(2) This section applies to the following charges:

(a) A charge for the purpose of securing any issue of debentures;

(b) A charge on uncalled share capital of the company;

(c) A charge created or evidenced by an instrument which, if executed by an individual, would require registration under the Chattels Transfer Act, 1924:
(d) A floating charge on the undertaking or property of the company:

(e) A charge on land, wherever situate, or any interest therein:

(f) A charge on book debts of the company:

(g) A charge on calls made but not paid:

(h) A charge on a ship or any share in a ship:

(i) A charge on goodwill, on a patent or a license under a patent, on a trade-mark, or on a copyright or a license under a copyright.

(3) Instruments required to be registered in accordance with the foregoing provisions of this section shall, in the case of instruments executed in New Zealand, be so registered within twenty-one days after the date of the execution thereof, and in the case of instruments executed outside New Zealand within three months after the date of execution.

(4) Where a charge is created in New Zealand but comprises property outside New Zealand, a copy of the instrument creating or purporting to create the charge must be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts.

(6) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land.

(7) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture-holders of that series are entitled pari passu is created by a company, it shall for the purposes of this section be sufficient if there are delivered to or received by the Registrar within twenty-one days, or three months, as the case may be, after the execution of the deed containing the charge, or, if there is no such deed, after the execution of any debentures of the series, the following particulars:—

(a) The total amount secured by the whole series; and
(b) The dates of the resolutions authorizing the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and

(c) A general description of the property charged; and

(d) The names of the trustees, if any, for the debenture-holders; together with a copy of the deed containing the charge, or, if there is no such deed, a copy of one of the debentures of the series, in either case accompanied by a statutory declaration as required by subsection one of this section:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar, for entry in the register, particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(8) Where any commission, allowance, or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per centum of the commission, discount, or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this subsection be treated as the issue of the debentures at a discount.

(9) Registration of any charge under this section may be effected on the application of any person interested therein. Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

(10) If any company makes default in sending to the Registrar for registration a copy of the instrument creating or evidencing any charge created by the
company, or the particulars of the issues of debentures of a series, requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every director, manager, secretary, or other person who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds for every day during which the default continues.

(11) In this Part of this Act—
(a) The expression "charge" includes "mortgage"; and
(b) Land held by a company under an agreement for sale and purchase shall be deemed to be the property of the company subject to a charge created by the agreement, and securing the balance of purchase-money for the time being unpaid.

(12) Except as provided in subsection two of section four of the Chattels Transfer Act, 1924, registration of any instrument under this Part of this Act shall not in itself constitute notice to any person of the contents of that instrument.

90. (1) This section applies to—
(a) Every charge created after the commencement of this Act and required to be registered under the last preceding section, other than charges registrable under any Act other than this Act; and
(b) Every charge created before the commencement of this Act and registrable under section one hundred and thirty of the Companies Act, 1908.

(2) Subject to the provisions of this Part of this Act, every charge to which this section applies shall, so far as any security on a company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the charge is registered in the manner and within the time prescribed by the last preceding section or by section one hundred and thirty of the Companies Act, 1908, as the case may be, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this subsection the money secured thereby shall immediately become payable.
(3) A charge created outside New Zealand and registered more than twenty-one days after the execution of the instrument creating or evidencing the charge, but within three months after the execution thereof shall, as to property in New Zealand, take effect subject to any rights acquired before the registration thereof.

**91. (1)** Where after the commencement of this Act a company acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part of this Act, the company shall cause a copy of the instrument by which the charge was created or is evidenced, accompanied by a statutory declaration as to the date of the acquisition of the property and verifying the copy as a true copy, to be delivered to the Registrar for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed:

Provided that, if the property is situate and the charge was created outside New Zealand, three months after the completion of the acquisition shall be substituted for twenty-one days after the completion thereof as the time within which the copy of the instrument is to be delivered to the Registrar:

Provided also that if the instrument by which the charge is created or evidenced has been already registered with the Registrar, or is registered under any Act other than this Act, it shall be sufficient compliance with the requirements of this subsection if, within twenty-one days, or three months, as the case may be, particulars of the instrument sufficient to identify it, and such other particulars (if any) as may be prescribed, are delivered to the Registrar for registration.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds unless it is proved to the satisfaction of the Court that a copy of the instrument required to be registered was not obtainable by the company.

**92. (1)** The Registrar shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part of this Act, and shall, on payment of the prescribed fee, enter in Register of charges to be kept by Registrar.

Imp. s. 82
N.Z. s. 130 (3), (8)
the register with respect to such charges the following particulars:

(a) In the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in subsection seven of section eighty-nine of this Act:

(b) In the case of any other charge—

(i) If the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property; and

(ii) The amount secured by the charge; and

(iii) Short particulars of the property charged; and

(iv) The persons entitled to the charge.

(2) The Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part of this Act stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part of this Act as to registration have been complied with.

(3) The register kept in pursuance of this section and all documents registered under this Part of this Act shall be open to inspection by any person on payment of the prescribed fee.

(4) The Registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the charges entered in the register.

93. (1) The company shall cause a copy of every certificate of registration given under the last preceding section to be endorsed on every debenture or certificate of debenture stock which is issued by the company and the payment of which is secured by the charge so registered:

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.

(2) If any person knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this
section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he shall, without prejudice to any other liability, be liable to a fine not exceeding one hundred pounds.

94. (1) The Registrar may, on evidence being given to his satisfaction that the debt or other obligation for which any registered charge was given has been paid or satisfied in whole or in part, enter a memorandum of satisfaction or partial satisfaction, as the case may be, on the register, and shall, if required, furnish the company with a copy thereof.

(2) The Court, on application made to it for that purpose, and on being satisfied that the debt or other obligation for which any registered charge was given has been paid or satisfied in whole or in part, may order that a memorandum of satisfaction or partial satisfaction, as the case may be, be entered on the register, and the Registrar shall enter such memorandum accordingly.

95. (1) The Court, on being satisfied that the omission to register a charge within the time required by this Act, or that the omission or misstatement of any particular from or in any document registered under this Part of this Act, or from or in any memorandum of satisfaction, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the Court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified.

(2) The foregoing provisions of this section shall apply with respect to charges created before the commencement of this Act and registrable under section one hundred and thirty of the Companies Act, 1908, in the same manner in all respects as they apply to charges created after the commencement of this Act.

96. (1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the said powers, give notice of the fact to
the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the Registrar notice to that effect, and the Registrar shall enter the notice in the register of charges.

(3) If any person makes default in complying with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges.

97. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part of this Act to be kept at the registered office of the company:

Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

98. (1) Every limited company shall keep at the registered office of the company a register of charges, and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

(2) If any director, manager, or other officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section he shall be liable to a fine not exceeding fifty pounds.

99. (1) The copies of instruments creating any charge requiring registration under this Part of this Act with the Registrar, and the register of charges kept in pursuance of the last preceding section, shall be open during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall
be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding one shilling for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorizing or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding five pounds, and a further fine not exceeding two pounds for every day during which the refusal continues.

(3) In the case of any such refusal, the Court may by order compel an immediate inspection of the copies or register.

Application of this Part to Companies incorporated outside New Zealand.

100. The provisions of this Part of this Act shall extend to charges on property in New Zealand which are created, and to charges on property in New Zealand which is acquired, after the commencement of this Act by a company (whether a company within the meaning of this Act or not) incorporated outside New Zealand which has an established place of business in New Zealand.

Transitional Provision as to Matters required to be registered under this Act, but not under Former Acts.

101. (1) Except as provided in the next succeeding subsection, it shall be the duty of a company within six months after the commencement of this Act to send or deliver to the Registrar for registration under this Part of this Act a copy (verified in manner prescribed by section eighty-nine or section ninety-one of this Act) of the instrument creating or evidencing—

(a) Any charge created by the company before the date of the commencement of this Act and remaining unsatisfied at that date which would have been required to be registered under the
provisions of paragraphs (e), (f), (g), (h), and (i) of subsection two of section eighty-nine of this Act or under the provisions of section one hundred of this Act, as the case may require, if the charge had been created after the commencement of this Act; and

(b) Any charge to which any property acquired by the company before the commencement of this Act is subject and which would have been required to be registered under the provisions of section ninety-one of this Act or under the provisions of section one hundred of this Act, as the case may require, if the property had been acquired after the commencement of this Act.

(2) Notwithstanding anything in the last preceding subsection, if the instrument by which the charge is created or evidenced has been already registered with the Registrar, or is registered under any Act other than this Act, it shall be sufficient compliance with the requirements of the last preceding subsection if, within the time hereinbefore prescribed, particulars of the instrument sufficient to identify it, and such other particulars (if any) as may be prescribed, are delivered to the Registrar for registration.

(3) The Registrar shall, on payment of the prescribed fee, register all such charges in the register kept by him in pursuance of this Part of this Act.

(4) If a company fails to comply with this section, the company and every director, manager, secretary, or other officer of the company, or other person who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues:

Provided that the failure of the company shall not prejudice any rights which any person in whose favour the charge was made may have thereunder.

(5) For the purposes of this section the expression "company" includes a company (whether a company within the meaning of this Act or not) incorporated outside New Zealand which has an established place of business in New Zealand.
PART V.

MANAGEMENT AND ADMINISTRATION.

Registered Office and Name.

102. (1) A company shall, as from the day on which it begins to carry on business or as from the expiration of one month after the date of its incorporation, whichever is the earlier, have a registered office in New Zealand to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office, and of any change therein, shall be given to the Registrar within one month after the date of the incorporation of the company or of the change, as the case may be, and the Registrar shall record the same. The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this subsection.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

103. (1) Every company—

(a) Shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible:

(b) Shall have its name engraven or otherwise permanently marked in legible characters on its seal:

(c) Shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(2) If a company does not paint or affix its name in manner directed by this Act, the company and every officer of the company who is in default shall be liable to a fine not exceeding five pounds, and if a company does not keep its name painted or affixed in manner so...
directed, the company and every officer of the company who is in default shall be liable to a default fine.

(3) If a company fails to comply with paragraph (b) or paragraph (c) of subsection one of this section, the company shall be liable to a fine not exceeding fifty pounds.

(4) If a director, manager, or officer of a company, or any person on its behalf—
   (a) Uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven or marked as aforesaid; or
   (b) Issues or authorizes the issue of any notice, advertisement, or other official publication of the company, or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque, or order for money or goods, wherein its name is not mentioned in manner aforesaid; or
   (c) Issues or authorizes the issue of any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid,—

he shall be liable to a fine not exceeding fifty pounds, and shall further be personally liable to the holder of the bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless it is duly paid by the company.

Restrictions on Commencement of Business.

104. (1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless—
   (a) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
   (b) Every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and
(c) There has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with.

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing-powers, unless—

(a) There has been delivered to the Registrar for registration a statement in lieu of prospectus; and

(b) Every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash; and

(c) There has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors in the prescribed form that paragraph (b) of this subsection has been complied with.

(3) The Registrar shall, on the delivery to him of the said statutory declaration, and, in the case of a company which is required by this section to deliver a statement in lieu of prospectus, of such a statement, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing-powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to a fine not exceeding fifty pounds for every day during which the contravention continues.
(7) Nothing in this section shall apply to—

(a) A company registered before the eighth day of November, nineteen hundred and one (being the date of the passing of the Companies Act, 1901); or

(b) A company registered before the commencement of this Act which has not issued a prospectus inviting the public to subscribe for its shares.

Register of Members.

105. (1) Every company shall keep in one or more books a register of its members, and enter therein the following particulars:

(a) The names, addresses, and descriptions of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) The date at which each person was entered in the register as a member; and

(c) The date at which any person ceased to be a member:

Provided that, where the company has converted any of its shares into stock, and given notice of the conversion to the Registrar, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this subsection.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

106. (1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company, and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.
(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

107. (1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:—

(a) The fact of the issue of the warrant;
(b) A statement of the shares included in the warrant, distinguishing each share by its number; and
(c) The date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in subsection one of this section shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.

(5) Subject to the provisions of this Act, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles.

108. (1) The register of members, commencing from the date of the registration of the company, and the index of the names of members, shall be kept at the registered office of the company, and, except when the register is closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.
(2) Any member or other person may require a copy of the register, or of any part thereof, on payment in advance of sixpence, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied. The company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused, or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding two pounds, and further to a default fine of two pounds.

(4) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

109. A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.

110. (1) If—

(a) The name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(b) Default is made or unnecessary delay takes place in entering in the register the fact of any person having ceased to be a member—the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) Where an application is made under this section, the Court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand.
and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the Registrar, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

111. No notice of any trust, expressed, implied, or constructive, shall be entered on the register or be receivable by the Registrar.

112. The register of members shall be prima facie evidence of any matters by this Act directed or authorized to be inserted therein.

Branch Registers.

113. (1) A company may cause to be kept in any part of His Majesty’s dominions outside New Zealand a branch register of any of its members who desire to have their names entered therein (in this Act called a “branch register”).

(2) The company shall give to the Registrar notice of the situation of the office where any branch register is kept and of any change in its situation, and, if it is discontinued, of its discontinuance, and any such notice shall be given within fourteen days of the opening of the office or of the change or discontinuance, as the case may be.

(3) If default is made in complying with subsection two of this section, the company and every officer of the company who is in default shall be liable to a default fine.

114. (1) A branch register shall be deemed to be part of the company’s register of members (in this section called “the principal register”).

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district where the branch register is kept, and that any competent Court in that part of His Majesty’s dominions where the register is kept may exercise the same jurisdiction of rectifying the register as is under this Act exercisable by the Court, and that the offences of refusing
Power to extend provisions as to branch registers to other countries.
19 & 20 Geo. V, c. 23, s. 106
(Imperial)

Provisions as to branch registers of British or dominion companies kept in New Zealand.
Imp. s. 107

inspection or copies of a branch register and of authorizing or permitting the refusal may be prosecuted summarily before any tribunal having summary criminal jurisdiction in that part of His Majesty’s dominions.

(3) The company shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register. Every such duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(5) A company may discontinue to keep a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company, or to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

(7) If default is made in complying with subsection three of this section, the company and every officer of the company who is in default shall be liable to a default fine.

115. The Governor-General may by Order in Council direct that the last two preceding sections of this Act, including any enactments for the time being in force amending or substituted for those sections, shall extend, with or without any exceptions, adaptations, or modifications specified in the Order, to any country or place out of His Majesty’s dominions in which for the time being His Majesty has jurisdiction, or to any territories under His Majesty’s protection. The Governor-General may by Order in Council revoke or vary any Order made under this section.

116. (1) Sections one hundred and eight and one hundred and ten of this Act shall, subject to any necessary modifications and adaptations, apply to and in relation to any branch register kept in New Zealand by a company incorporated in any part of His Majesty’s
dominions outside New Zealand as they apply to and in relation to the registers of companies within the meaning of this Act.

(2) For the purposes of this section the expression "His Majesty's dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate under the League of Nations has been accepted by His Majesty.

**Annual Return.**

117. (1) Every company having a share capital shall once at least in every year make a return containing a list of all persons who, on the fourteenth day after the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company:

Provided that a company shall not be required to make a return under this section in the year in which it delivers the statutory report to the Registrar pursuant to section one hundred and twenty-one of this Act, unless in that year it holds an ordinary general meeting.

(2) The list must state the names, addresses, and descriptions of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or, in the case of the first return, of the incorporation of the company by persons who are still members and have ceased to be members respectively, and the dates of registration of the transfers, and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found:

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the list must state the amount of stock held by each of the existing members instead of the amount of shares and the particulars relating to shares hereinbefore required.

(3) The return must also state the address of the registered office of the company, and must contain a summary distinguishing between shares issued for cash...
and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:—

(a) The amount of the share capital of the company, and the number of the shares into which it is divided:

(b) The number of shares taken from the commencement of the company up to the date of the return:

(c) The amount called up on each share:

(d) The total amount of calls received:

(e) The total amount of calls unpaid:

(f) The total amount of the sums, if any, paid by way of commission in respect of any shares or debentures since the date of the last return, or, in the case of the first return, since the date of the incorporation of the company:

(g) Particulars of the discount allowed on the issue of any shares issued at a discount, or of so much of that discount as has not been written off at the date on which the return is made:

(h) The total amount of the sums, if any, allowed by way of discount in respect of any debentures since the date of the last return, or, in the case of the first return, since the date of the incorporation of the company:

(i) The total number of shares forfeited and not sold or otherwise disposed of:

(j) The total amount of shares for which share warrants are outstanding at the date of the return:

(k) The total amount of share warrants issued and surrendered respectively since the date of the last return, or, in the case of the first return, since the date of the incorporation of the company:

(l) The number of shares comprised in each share warrant:

(m) All such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Act required to be contained with respect to directors in the register of the directors of a company:

(n) The total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the
Registrar under this Act, or which would have been required so to be registered if created after the twenty-third day of November, nineteen hundred and three.

(4) The return shall be in accordance with the form set out in the Fifth Schedule to this Act, or as near thereto as circumstances admit.

(5) In the case of a company keeping a branch register, the particulars of the entries in that register shall, so far as they relate to matters which are required to be stated in the return, be included in the return made next after copies of those entries are received at the registered office of the company.

118. (1) Every company not having a share capital shall once at least in every calendar year make a return stating—

(a) The address of the registered office of the company;

(b) All such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Act required to be contained with respect to directors in the register of directors of a company.

(2) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Act, or which would have been required so to be registered if created after the twenty-third day of November, nineteen hundred and three.

119. (1) The annual return must be contained in a separate part of the register of members, and must be completed within one month after the first or only ordinary general meeting in the year, and the company must forthwith forward to the Registrar a copy signed by a director or by the manager or by the secretary of the company.

(2) Section one hundred and eight of this Act shall apply to the annual return as it applies to the register of members.

(3) The annual return shall include a copy, certified by a director or the manager or secretary of the company to be a true copy, of the last balance-sheet which has been audited by the company's auditors, including every document required by law to be annexed.
thereto, together with a copy of the report of the auditors thereon certified as aforesaid, and if any such balance-sheet is in a foreign language there shall also be annexed to it a translation thereof in English, certified in the prescribed manner to be a correct translation:

Provided that if the said last balance-sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance-sheets there shall be made such additions to and corrections in the said copy as would have been required to be made in the said balance-sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended shall be stated thereon.

(4) If a company fails to comply with this section or either of the last two preceding sections of this Act, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of subsection four of this section the expression "officer", and for the purposes of the last two preceding sections of this Act the expression "director", shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Meetings and Proceedings.

120. (1) A general meeting of every company shall be held once at the least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting.

(2) If default is made in holding a meeting of the company in accordance with the provisions of this section, the company and every director or manager of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty pounds.

(3) If default is made as aforesaid, the Court may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company.

121. (1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting".
(2) The directors shall, at least seven days before the day on which the meeting is held, forward a report (in this Act referred to as "the statutory report") to every member of the company.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state—

(a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) The total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(c) An abstract of the receipts of the company and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(d) The names, addresses, and descriptions of the directors, auditors (if any), managers (if any), and secretary of the company; and

(e) The particulars of any contract the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as required by this section, to be delivered to the Registrar for registration forthwith after the sending thereof to the members of the company.
(6) The directors shall cause a list showing the names, addresses, and descriptions of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) In the event of any default in complying with the provisions of this section every director of the company who is guilty of or who knowingly and wilfully authorizes or permits the default shall be liable to a fine not exceeding fifty pounds.

122. (1) The directors of a company, notwithstanding anything in its articles, shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth in nominal value of such of the shares of the company as at the date of the deposit carry the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not within twenty-one days from the date of the deposit of the requisition proceed duly to convene a meeting to be held within forty days
from the said date, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section one hundred and twenty-five of this Act.

123. (1) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf:—

(a) A meeting of a company, other than a meeting for the passing of a special resolution, may be called by seven days’ notice in writing.

(b) Notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A, and for the purpose of this paragraph the expression “Table A” means that Table as for the time being in force.

(c) Two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company may call a meeting.

(d) Three members personally present shall be a quorum.

(e) Any member elected by the members present at a meeting may be chairman thereof.
(f) In the case of a company originally having a share capital, every member shall have one vote in respect of each share or each ten pounds of stock held by him, and in any other case every member shall have one vote.

(2) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Act, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held, and conducted in such manner as the Court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held, and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held, and conducted.

124. (1) A corporation, whether a company within the meaning of this Act or not, may—

(a) If it is a member of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company:

(b) If it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorized as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor, or holder of debentures of that other company.
125. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person, or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution, and at a general meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given:

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll shall be taken to be effectively demanded if demanded—

(a) By such number of members for the time being entitled under the articles to vote at the meeting as may be specified in the articles, so, however, that it shall not in any case be necessary for more than five members to make the demand; or

(b) If no provision is made by the articles with respect to the right to demand the poll, by three members so entitled or by one member or two members so entitled, if that member holds or those two members together hold not less than fifteen per centum of the paid-up share capital of the company.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member
is entitled by virtue of this Act or of the articles of the company.

(6) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Act or the articles.

126. (1) A printed or typewritten copy of every resolution or agreement to which this section applies shall, within fifteen days after the passing or making thereof, be forwarded to the Registrar and recorded by him.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed or typewritten copy of every such resolution or agreement shall be forwarded to any member, at his request, on payment of one shilling or such less sum as the company may direct.

(4) This section shall apply to—

(a) Special resolutions:

(b) Extraordinary resolutions:

(c) Resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions:

(d) Resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members:

(e) Resolutions requiring a company to be wound up voluntarily, passed under paragraph (a) of subsection one of section two hundred and twenty-one of this Act.

(5) If a company fails to comply with subsection one of this section, the company and every officer of the
company who is in default shall be liable to a default fine of two pounds.

(6) If a company fails to comply with subsection two or subsection three of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(7) For the purposes of the last two preceding subsections a liquidator of the company shall be deemed to be an officer of the company.

127. Where after the commencement of this Act a resolution is passed at an adjourned meeting of—
   (a) A company;
   (b) The holders of any class of shares in a company;
   (c) The directors of a company—
the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

128. (1) Every company shall cause minutes of all proceedings of general meetings, and, where there are directors or managers, of all proceedings at meetings of its directors or of its managers, to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators shall be deemed to be valid.

129. (1) The books containing the minutes of proceedings of any general meeting of a company held after the commencement of this Act shall be kept at the registered office of the company, and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for
Keeping of books of account.

19 & 20 Geo. V, c. 23, s. 122 (Imperial)

(1) Every company shall cause to be kept proper books of account with respect to—

(a) All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place:

(b) All sales and purchases of goods by the company:

(c) The assets and liabilities of the company.

(2) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by any director.

(3) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.
131. (1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months, or, in the case of a company carrying on business or having interests beyond New Zealand, by more than twelve months:

Provided that the Court, if for any special reason it thinks fit so to do, may in the case of any company extend the period of eighteen months aforesaid, and in the case of any company and with respect to any year extend the periods of nine and twelve months aforesaid.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance-sheet as at the date to which the profit and loss account, or the income and expenditure account, as the case may be, is made up; and there shall be attached to every such balance-sheet a report by the directors with respect to the state of the company's affairs, the amount (if any) which they recommend should be paid by way of dividend, and the amount (if any) which they propose to carry to the reserve fund, general reserve, or reserve account shown specifically on the balance-sheet, or to a reserve fund, general reserve, or reserve account to be shown specifically on a subsequent balance-sheet.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section, he shall, in respect of each offence, be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds:

Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.
132. (1) Every balance-sheet of a company shall contain a summary of the authorized share capital and of the issued share capital of the company, its liabilities and its assets, together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the company and to distinguish between the amounts respectively of the fixed assets and of the floating assets, and shall state how the values of the fixed assets have been arrived at.

(2) There shall be stated under separate headings in the balance-sheet, so far as they are not written off,—
(a) The preliminary expenses of the company; and
(b) Any expenses incurred in connection with any issue of share capital or debentures; and
(c) If it is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or from any documents in the possession of the company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property, the amount of the goodwill and of any patents and trademarks as so shown or ascertained.

(3) Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the balance-sheet shall include a statement that that liability is so secured, but it shall not be necessary to specify in the balance-sheet the assets on which the liability is secured.

(4) The provisions of this section are in addition to other provisions of this Act requiring other matters to be stated in balance-sheets.

133. Where any of the assets of a company consist of shares in or amounts owing (whether on account of a loan or otherwise) from a subsidiary company or subsidiary companies, the aggregate amount of those assets, distinguishing shares and indebtedness, shall be set out in the balance-sheet of the first-mentioned company separately from all its other assets; and where a company is indebted, whether on account of a loan or otherwise, to a subsidiary company or subsidiary companies, the aggregate amount of that indebtedness shall be set out
in the balance-sheet of that company separately from all its other liabilities.

134. (1) Where a company (in this section referred to as "the holding company") holds shares, either directly or through a nominee, in a subsidiary company or in two or more subsidiary companies, there shall be annexed to the balance-sheet of the holding company a statement, signed by the persons by whom in pursuance of section one hundred and thirty-seven of this Act the balance-sheet is signed, stating how the profits and losses of the subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have, so far as they concern the holding company, been dealt with in or for the purposes of the accounts of the holding company, and, in particular, how and to what extent,—

(a) Provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding company, or of both; and

(b) Losses of a subsidiary company have been taken into account by the directors of the holding company in arriving at the profits and losses of the holding company as disclosed in its accounts:

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company, or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner.

(2) If in the case of a subsidiary company the auditors' report on the balance-sheet of the company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance-sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them and as shown by the books of the company, the statement which is to be annexed as aforesaid to the balance-sheet of the holding company shall contain particulars of the manner in which the report is qualified.

(3) For the purposes of this section the profits or losses of a subsidiary company mean the profits or losses
shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding company relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the holding company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

(4) If for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement aforesaid, the directors who sign the balance-sheet shall so report in writing, and their report shall be annexed to the balance-sheet in lieu of the statement.

135. (1) Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee, and whether that other company is a company within the meaning of this Act or not, and—

(a) The amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per centum of the issued share capital of that other company or such as to entitle the company to more than fifty per centum of the voting-power in that other company; or

(b) The company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,—

that other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression "subsidiary company" in this Act means a company in the case of which the conditions of this section are satisfied.

(2) Where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall for the purpose of determining under this section whether that other company is a subsidiary company be taken of the shares so held.
136. (1) The accounts which in pursuance of this Act are to be laid before every company in general meeting shall, subject to the provisions of this section, contain particulars showing—

(a) The amount of any loans which during the period to which the accounts relate have been made either by the company or by any other person under a guarantee from or on a security provided by the company to any director or officer of the company, including any such loans which were repaid during the said period; and

(b) The amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof; and

(c) The total of the amount paid during the period to which the accounts relate to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the company or by or from any subsidiary company.

(2) The provisions of subsection one of this section with respect to loans shall not apply—

(a) In the case of a company the ordinary business of which includes the lending of money, to a loan made by the company in the ordinary course of its business; or

(b) To a loan made by the company to any employee of the company if the loan does not exceed two thousand pounds and is certified by the directors of the company to have been made in accordance with any practice adopted or about to be adopted by the company with respect to loans to its employees.

(3) The provisions of subsection one of this section with respect to the remuneration paid to directors shall not apply in relation to a managing director of the company, and in the case of any other director who holds any salaried employment or office in the company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors’ fees.

(4) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it
shall be the duty of the auditors of the company by whom
the accounts are examined to include in their report on
the balance-sheet of the company, so far as they are
reasonably able to do so, a statement giving the required
particulars.

(5) In this section the expression “emoluments”
includes fees, percentages, and other payments made or
consideration given, directly or indirectly, to a director
as such, and the money value of any allowances or
perquisites belonging to his office.

137. (1) Every balance-sheet of a company shall be
signed on behalf of the board by two of the directors of
the company, or, if there is only one director, by that
director; and the auditors’ report shall be attached to
the balance-sheet, and the report shall be read before
the company in general meeting, and shall be open to
inspection by any member.

(2) If any copy of a balance-sheet which has not been
signed as required by this section is issued, circulated, or
published, or if any copy of a balance-sheet is issued,
circulated, or published without having a copy of the
auditors’ report attached thereto, the company, and every
director, manager, secretary, or other officer of the com­
pany who is knowingly a party to the default, shall on
conviction be liable to a fine not exceeding fifty pounds.

138. (1) A copy of every balance-sheet, including every
document required by law to be annexed thereto, which is
to be laid before a company in general meeting, together
with a copy of the auditors’ report, shall, not less than
seven days before the date of the meeting, be sent to all
persons entitled to receive notices of general meetings of
the company.

(2) Any member of the company, whether he is or is
not entitled to have sent to him copies of the company’s
balance-sheets, and any holder of debentures of the
company, shall be entitled to be furnished on demand,
without charge, with a copy of the last balance-sheet of
the company, including every document required by law to
be annexed thereto, together with a copy of the auditors’
report on the balance-sheet.

(3) If default is made in complying with subsection
one of this section, the company and every officer of the
company who is in default shall be liable to a fine not
exceeding twenty pounds, and if, where any person makes
a demand for a document with which he is by virtue of subsection two hereof entitled to be furnished, default is made in complying with the demand within seven days after the making thereof, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall be liable to a fine not exceeding five pounds for every day during which the default continues, unless it is proved that that person has already made a demand for and been furnished with a copy of the document.

139. (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the Registrar may, on the application of any member of the company, appoint an auditor of the company for the current year.

(3) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the members, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting: Provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this subsection, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this subsection, be sent or given at the same time as the notice of the annual general meeting.

(4) Subject as hereinafter provided, the first auditors of the company may be appointed by the directors at any time before the first annual general meeting, and auditors so appointed shall hold office until that meeting:

Provided that—

(a) The company may at a general meeting of which notice has been served on the auditors in the
same manner as on members of the company. remove any such auditors and appoint in their place any other persons being persons who have been nominated for appointment by any member of the company and of whose nomination notice has been given to the members of the company not less than seven days before the date of the meeting; and

(b) If the directors fail to exercise their powers under this subsection, the company in general meeting may appoint the first auditors, and thereupon the said powers of the directors shall cease.

(5) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act. If a casual vacancy in the office of auditor is not filled within one month after the occurrence of the vacancy, the Registrar may, on the application of any member of the company, appoint an auditor to fill such vacancy.

(6) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of an auditor appointed before the first annual general meeting or of an auditor appointed to fill a casual vacancy may be fixed by the directors, and that the remuneration of an auditor appointed by the Registrar may be fixed by the Registrar.

140. (1) None of the following persons shall be qualified for appointment as auditor of a company:—

(a) A director or officer of the company;

(b) A person who is a partner of or in the employment of a director or officer of the company;

(c) A body corporate.

(2) No person shall be qualified for appointment as auditor of a company unless he is a member of the New Zealand Society of Accountants, or a member, fellow, or associate of an association of accountants constituted in some part of His Majesty’s dominions outside New Zealand, and approved for the purpose of the audit of company accounts by the Minister of Finance by notice published in the Gazette:

Provided that nothing in this subsection shall disqualify any person appointed as auditor of a company before the commencement of this Act from acting as
(3) Nothing in this section shall disqualify a body corporate from acting as auditor of a company if acting under an appointment made before the commencement of this Act, but, subject as aforesaid, any body corporate which acts as auditor of a company shall be liable to a fine not exceeding one hundred pounds.

(4) For the purpose of avoiding undue hardship from the operation of subsection two of this section, the Council of the New Zealand Society of Accountants shall, notwithstanding anything to the contrary in the New Zealand Society of Accountants Act, 1908, admit to membership of the Society, without payment of any admission fee, every person who, on the thirty-first day of January, nineteen hundred and thirty-four, is a member of the Incorporated Institute of Accountants of New Zealand, or of the New Zealand Accountants’ and Auditors’ Association (Incorporated), or of the Certified Accountants Association of New Zealand (Incorporated), and who applies for admission as a member of the said Society on or before the thirty-first day of March, nineteen hundred and thirty-four. Notwithstanding anything to the contrary in section one of this Act, this subsection shall come into force on the date of the passing of this Act.

141. (1) The auditors shall make a report to the members on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state—

(a) Whether or not they have obtained all the information and explanations they have required; and
(b) Whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company’s affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(2) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information...
and explanation as may be necessary for the performance of the duties of the auditors.

(3) If any director or officer of the company refuses or fails, without lawful justification, the proof whereof shall lie on him, to allow any auditor access to any such books, accounts, or vouchers in his custody or power, or to give any such information possessed by him, as and when required, or otherwise hinders, obstructs, or delays an auditor in the performance of his duties or the exercise of his powers, he shall be liable to a fine not exceeding twenty pounds, and to a further fine not exceeding five pounds for every day during which the default, refusal, or contravention continues.

(4) The auditors of a company shall be entitled to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company, and to make any statement or explanation they desire with respect to the accounts. Notice of every such meeting shall be sent to the auditors as if they were members of the company, and there shall be sent with every such notice a copy of every document sent or required to be sent to the members in relation to the meeting.

Inspection.

142. (1) The Court may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Court directs—

(a) In the case of a company having a share capital, on the application of members holding not less than one-fifth of the shares issued:

(b) In the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company’s register of members.

(2) The application shall be supported by such evidence as the Court may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation, and the Court may, before appointing an inspector, require the applicants to give security, to an amount not exceeding one hundred and fifty pounds, for payment of the costs and expenses of and incidental to the investigation.
(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, the inspectors may certify the refusal under their hand to the Court, and the Court may thereupon inquire into the case, and after hearing any witnesses who may be produced against or on behalf of the alleged offender, and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the Court.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Court, and a copy of the report shall be forwarded by the Registrar of the Court to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

143. (1) If from any report made under the last preceding section it appears to the Court that any person has been guilty of any offence in relation to the company for which he is criminally liable, the Court shall cause the matter to be referred to the Attorney-General, and no prosecution shall be commenced except with the consent of the Attorney-General.

(2) If in any such case the Attorney-General considers that the case is one in which a prosecution ought to be instituted he shall cause proceedings to be instituted accordingly, and it shall be the duty of all officers and agents of the company, past and present (other than the defendant in the proceedings), to give all assistance in connection with the prosecution which they are reasonably able to give. For the purposes of this subsection the expression “agents” in relation to a company shall be deemed to include the bankers and solicitors of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.
(3) The costs and expenses of and incidental to an investigation under the last preceding section (in this subsection referred to as "the expenses") shall be defrayed as follows:

(a) Where as a result of the investigation a prosecution is instituted by direction of the Attorney-General the expenses shall be defrayed out of the Consolidated Fund:

(b) In any other case the expenses shall be defrayed by the company, unless the Court directs, as it is hereby authorized to do, that they shall either be paid by the applicants or in part by the company and in part by the applicants:

Provided that—

(i) If the company fails to pay the whole or any part of the sum which it is liable to pay under this subsection, the applicants shall make good the deficiency up to the amount by which the security given by them under the last preceding section exceeds the amount, if any, which they have under this subsection been directed by the Court to pay; and

(ii) Any balance of the expenses not defrayed either by the company or the applicants shall be defrayed out of the Consolidated Fund.

144. (1) A company may by special resolution appoint one or more inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Court, except that, instead of reporting to the Court, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, he shall be liable to be proceeded against in the same manner as if the inspectors had been inspectors appointed by the Court.
145. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Directors and Managers.

146. Every company registered after the commencement of this Act shall have at least two directors.

147. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in a prospectus issued by or on behalf of the company, or as a proposed director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus delivered to the Registrar by or on behalf of a company, unless before the registration of the articles or the publication of the prospectus, or the delivery of the statement in lieu of prospectus, as the case may be, he has, by himself or by his agent authorized in writing, signed and delivered to the Registrar for registration a consent in writing to act as such director; and

(a) Signed the memorandum for a number of shares not less than his qualification, if any; or

(b) Taken from the company and paid or agreed to pay for his qualification shares, if any; or

(c) Signed and delivered to the Registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or

(d) Made and delivered to the Registrar for registration a statutory declaration to the effect that a number of shares, not less than his qualification, if any, are registered in his name.

(2) Where a person has signed and delivered as aforesaid an undertaking to take and pay for his qualification shares, he shall, as regards those shares, be in the same position as if he had signed the memorandum for that number of shares.

(3) On the application for registration of the memorandum of a company the applicant shall deliver to the Registrar a list of the persons who have consented
Qualification of director or manager.

19 & 20 Geo. V, c. 23, s. 141 (Imperial); 1908, No. 26, ss. 60, 71 (N.Z.)

148. (1) Without prejudice to the restrictions imposed by the last preceding section, it shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company he shall be liable to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director.

149. (1) If any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of, any company except with the leave of the Court, he shall be liable on
conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months, or in either case to a fine not exceeding five hundred pounds or to both such imprisonment and fine:

Provided that a person shall not be guilty of an offence under this section by reason that he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of, a company, if he was at the date of the commencement of this Act acting as director of, or taking part or being concerned in the management of, that company, and has continuously so acted, taken part, or been concerned since that date and the bankruptcy was prior to that date.

(2) The leave of the Court for the purposes of this section shall not be given unless notice of intention to apply therefor has been served on the Official Assignee, and it shall be the duty of the Official Assignee, if he is of opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

(3) In this section the expression “company” includes an unregistered company and a company incorporated outside New Zealand which has an established place of business within New Zealand.

150. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

151. (1) Every company shall keep at its registered office a register of its directors or managers, containing with respect to each of them the following particulars, that is to say—

(a) In the case of an individual, his full name, his usual residential address, and his business occupation, if any, or, if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; and

(b) In the case of a corporation, its corporate name and registered or principal office.

(2) The company shall, within the periods respectively mentioned in this subsection, send to the Registrar a return in the prescribed form containing the particulars specified in the said register, and a notification in the
prescribed form of any change among its directors or in any of the particulars contained in the register. The period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company, and the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge, and of any other person on payment of one shilling, or such less sum as the company may prescribe, for each inspection.

(4) If any inspection required under this section is refused, or if default is made in complying with subsection one or subsection two of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(5) In the case of any such refusal the Court may by order compel an immediate inspection of the register.

(6) For the purposes of this section a person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company.

152. (1) In a limited company the liability of the directors, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director is unlimited, the directors of the company, if any, and the member who proposes a person for election or appointment to the office of director, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, and secretary, if any, of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director or proposer makes default in adding such a statement, or if any promoter, director, or secretary makes default in giving such a notice, he shall be liable to a fine not exceeding one hundred pounds, and shall also be liable for any damage
which the person so elected or appointed may sustain
from the default, but the liability of the person elected or
appointed shall not be affected by the default.

153. (1) A limited company, if so authorized by its
articles, may, by special resolution, alter its memorandum
so as to render the liability of its directors or of any
managing director unlimited in respect of any debt or
liability contracted by the company after the passing
of the resolution, or, in the case of a director who is out
of New Zealand when such resolution is passed and who
has not received due notice of the intention to propose
the resolution, unlimited in respect of any debt or
liability contracted by the company after the expiration
of twenty-one days after written notice has been given
to such director of the passing of such resolution and
the terms thereof.

(2) Upon the passing of any such special resolution
the provisions thereof shall be as valid as if they had been
originally contained in the memorandum.

154. (1) Subject as hereinafter provided, the directors
of a company shall, on a demand in that behalf made to
them in writing by members of the company entitled to
not less than one-fourth of the aggregate number of
votes to which all the members of the company are
together entitled, furnish to all the members of the company
within a period of one month from the receipt of the
demand a statement, certified as correct, or with such
qualifications as may be necessary, by the auditors of the
company, showing as respects each of the last three pre-
ceding years in respect of which the accounts of the com-
pany have been made up the aggregate amount received
in that year by way of remuneration or other emoluments
by persons being directors of the company, whether as
such directors or otherwise in connection with the manage-
ment of the affairs of the company; and there shall, in
respect of any such director who is—

(a) A director of any other company which is in
relation to the first-mentioned company a
subsidiary company; or

(b) By virtue of the nomination, whether direct or
indirect, of the company a director of any other
company—

be included in the said aggregate amount any remunera-
tion or other emoluments received by him for his own use

Special
resolution of
limited
company
making liability
of directors
unlimited.
19 & 20 Geo. V,
c. 23, s. 147
(Imperial);
1908, No. 26,
s. 84, 85 (N.Z.)

Statement as to
remuneration of
directors to be
furnished to
shareholders.
Imp. s. 148
whether as a director of, or otherwise in connection with
the management of the affairs of, that other company:
Provided that—
(i) A demand for a statement under this section shall
be of no effect if the company within one
month after the date on which the demand is
made resolves that the statement shall not be
furnished; and
(ii) It shall be sufficient to state the total aggregate
of all sums paid to or other emoluments received
by all the directors in each year without specifying
the amount received by any individual.

(2) In computing for the purpose of this section the
amount of any remuneration or emoluments received by
any director, the amount actually received by him shall,
if the company has paid on his behalf any sum by way of
income-tax or other tax in respect of the remuneration or
emoluments, be increased by the amount of the sum so
paid.

(3) If any director fails to comply with the require­
ments of this section he shall be liable to a fine not
exceeding fifty pounds.

(4) In this section the expression “emoluments”
includes fees, percentages, and other payments made or
consideration given, directly or indirectly, to a director as
such, and the money value of any allowances or per­
quises belonging to his office.

155. (1) Subject to the provisions of this section, it
shall be the duty of a director of a company who is in any
way, whether directly or indirectly, interested in a con­
tract or proposed contract with the company to declare
the nature of his interest at a meeting of the directors of
the company.

(2) In the case of a proposed contract the declaration
required by this section to be made by a director shall be
made at the meeting of the directors at which the question
of entering into the contract is first taken into con­sideration, or, if the director was not at the date of that
meeting interested in the proposed contract, at the next
meeting of the directors held after he became so interested;
and in a case where the director becomes interested in a
contract after it is made, the said declaration shall be
made at the first meeting of the directors held after the
director becomes so interested.
(3) For the purpose of this section a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm, and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(4) Any director who fails to comply with the provisions of this section shall be liable to a fine not exceeding one hundred pounds.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

156. (1) It is hereby declared that it is not lawful in connection with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment, including the amount thereof, have been disclosed to the members of the company, and unless the proposal has been approved by the company in general meeting.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company, the amount received shall be deemed to have been received by him in trust for the company.

(3) Where a payment is to be made as aforesaid to a director of a company in connection with the transfer to any persons, as a result of an offer made to the general body of shareholders, of all or any of the shares in the company, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment, including the amount thereof, shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(4) If any such director fails to take reasonable steps as aforesaid, or if any person who has been properly required by any such director to include the said particulars in or send them with any such notice fails so to do, he shall be liable to a fine not exceeding twenty-five pounds, and if the requirements of the last preceding subsection are not complied with in relation to any such payment as
is mentioned in the said subsection any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made.

(5) If in connection with any such transfer as aforesaid the price to be paid to a director of the company whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares or any valuable consideration is given to any such director, the excess or the money value of the consideration, as the case may be, shall for the purposes of this section be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connection with his retirement from office.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are mentioned in this section, or with respect to any other like payments made or to be made to the directors of a company.

157. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

158. Subject as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager, or officer of the company, or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty, or breach of trust of which he may be guilty in relation to the company shall be void:
Provided that—

(a) In relation to any such provision which is in force at the date of the commencement of this Act, this section shall have effect only on the expiration of a period of six months from that date; and

(b) Nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force; and

(c) Notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer, or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under section three hundred and eighty-one of this Act in which relief is granted to him by the Court.

Arrangements and Reconstructions.

159. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs. If any question arises under this section as to whether or not any members or creditors of a company constitute a class of members or a class of creditors, as the case may be, it shall be determined by the Court as in the circumstances it thinks proper.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting agree to any compromise or arrangement, the compromise or
arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under subsection two of this section shall have no effect until an office copy of the order has been delivered to the Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with subsection three of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one pound for each copy in respect of which default is made.

(5) In this section the expression "company" means any company liable to be wound up under this Act, the expression "creditor" includes every person who has a claim that upon the winding-up of the company would be admissible to proof in accordance with section two hundred and fifty-six of this Act, and the expression "arrangement" includes a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both those methods.

160. (1) Where an application is made to the Court under the last preceding section for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as "a transferor company") is to be transferred to another company (in this section referred to as "the transferee company"), the Court may, either by the order
sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters:—

(a) The transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company:

(b) The allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person:

(c) The continuation by or against the transferee company of any legal proceedings pending by or against any transferor company:

(d) The dissolution, without winding up, of any transferor company:

(e) The provision to be made for any persons who within such time and in such manner as the Court directs dissent from the compromise or arrangement:

(f) Such incidental, consequential, and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and, in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause an office copy thereof to be delivered to the Registrar for registration within seven days after the making of the order, and if default is made in complying with this subsection the company and every officer of the company who is in default shall be liable to a default fine.

(4) In this section the expression “property” includes property, rights, and powers of every description, and the expression “liabilities” includes duties.
(5) Notwithstanding the provisions of subsection five of the last preceding section, the expression "company" in this section does not include any company other than a company within the meaning of this Act.

161. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as "the transferor company") to another company, whether a company within the meaning of this Act or not (in this section referred to as "the transferee company"), has within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine-tenths in value of the shares affected, the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the Court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company:

Provided that, where any such scheme or contract has been so approved at any time before the commencement of this Act, the Court may by order, on an application made to it by the transferee company within two months after the commencement of this Act, authorize notice to be given under this section at any time within fourteen days after the making of the order, and this section shall apply accordingly, except that the terms on which the shares of the dissenting shareholder are to be acquired shall be such terms as the Court may by the order direct instead of the terms provided by the scheme or contract.

(2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the
notice to the transferor company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract, and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

PART VI.

WINDING-UP.

(i) PRELIMINARY.

Modes of Winding-up.

162. (1) The winding-up of a company may be either—

(a) By the Court; or

(b) Voluntary; or

(c) Subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any of those modes.

Contributories.

163. (1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves,
subject to the provisions of subsection two of this section and the following qualifications:

(a) A past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding-up:

(b) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member:

(c) A past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a company limited by guarantee no contribution shall, subject to the provisions of subsection three of this section, be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up:

(f) Nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract:

(g) A sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding-up of a limited company any director or manager, whether past or present, whose
liability is, under the provisions of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding-up a member of an unlimited company:

Provided that—

(a) A past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up:

(b) A past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office:

(c) Subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding-up.

(3) In the winding-up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

164. The term “contributory” means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

165. The liability of a contributory shall create a debt (of the nature of a specialty) accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

166. (1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives shall be liable in a due course of administration to contribute to the assets of
Contributories in case of bankruptcy of member.
19 & 20 Geo. V, c. 23, s. 161 (Imperial); 1908, No. 26, ss. 174, 176 (N.Z.)

Provision as to married women.
Imp. s. 162

See Reprint of Statutes, Vol. III, p. 851

Circumstances in which company may be wound up by Court.
Imp. s. 168
N.Z. ss. 87(9), 177

167. If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories,—

(a) The assignee of his estate shall represent him for all the purposes of the winding-up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and

(b) There may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

168. (1) The husband of a female contributory married before the first day of January, eighteen hundred and eighty-five (being the date of the commencement of the Married Women's Property Act, 1884) shall, during the continuance of the marriage, be liable, as respects any liability attaching to any shares acquired by her before that date, to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be a contributory accordingly.

(2) Subject as aforesaid, nothing in this Act shall affect the provisions of the Married Women's Property Act, 1908.

(ii) WINDING-UP BY THE COURT.

Cases in which Company may be wound up by Court.

169. A company may be wound up by the Court if—

(a) The company has by special resolution resolved that the company be wound up by the Court;

(b) Default is made in delivering the statutory report to the Registrar or in holding the statutory meeting:
(c) The company does not commence its business within a year from its incorporation, or suspends its business for a whole year:

(d) The number of members is reduced below seven:

(e) The company is unable to pay its debts:

(f) The Court is of opinion that it is just and equitable that the company should be wound up.

170. A company shall be deemed to be unable to pay its debts—

(a) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor; or

(b) If execution or other process issued on a judgment, decree, or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(c) If it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

171. (1) An application to the Court for the winding-up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately:

Provided that—

(a) A contributory shall not be entitled to present a winding-up petition unless—

(i) Either the number of members is reduced below seven; or
(ii) The shares in respect of which he is a contributory, or some of them, either were originally allotted to him, or have been held by him and registered in his name for at least six months during the eighteen months before the commencement of the winding-up, or have devolved on him through the death of a former holder; and

(b) A winding-up petition shall not, if the ground of the petition is default in delivering the statutory report to the Registrar or in holding the statutory meeting, be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held; and

(c) The Court shall not give a hearing to a winding-up petition presented by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and until a *prima facie* case for winding-up has been established to the satisfaction of the Court.

(2) Where a company is being wound up voluntarily or subject to supervision, a winding-up petition may be presented by the Official Assignee as well as by any other person authorized in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

(3) Where under the provisions of this Part of this Act any person as being the husband of a female contributory is himself a contributory, and a share has during the whole or any part of the six months mentioned in subparagraph (ii) of paragraph (a) of the proviso to subsection one of this section been held by or registered in the name of the wife, or by or in the name of a trustee for the wife or for the husband, the share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the husband.
172. (1) On hearing a winding-up petition the Court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where the petition is presented on the ground of default in delivering the statutory report to the Registrar or in holding the statutory meeting, the Court may—

(a) Instead of making a winding-up order, direct that the statutory report shall be delivered or that a meeting shall be held; and

(b) Order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

173. At any time after the presentation of a winding-up petition, and before a winding-up order has been made, the company, or any creditor or contributory, may—

(a) Where any action or proceeding against the company is pending in the Supreme Court or Court of Appeal, apply to the Court in which the action or proceeding is pending for a stay of proceedings therein; and

(b) Where any other action or proceeding is pending against the company, apply to the Supreme Court to restrain further proceedings in the action or proceeding;

and the Court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

174. In a winding-up by the Court, any disposition of the property of the company, including things in action, and any transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding-up, shall, unless the Court otherwise orders, be void.

175. Where any company is being wound up by the Court, any attachment, distress, or execution put in force against the estate or effects of the company after the commencement of the winding-up shall be void to all intents.
Commencement of Winding-up.

176. (1) Where before the presentation of a petition for the winding-up of a company by the Court a resolution has been passed by the company for voluntary winding-up, the winding-up of the company shall be deemed to have commenced at the time of the passing of the resolution, and, unless the Court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding-up shall be deemed to have been validly taken.

(2) In any other case the winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Consequences of Winding-up Order.

177. On the making of a winding-up order a copy of the order must forthwith be forwarded by the company, or otherwise as may be prescribed, to the Registrar, who shall make a minute thereof in his books relating to the company.

178. When a winding-up order has been made, or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

179. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Official Assignee in Winding-up.

180. For the purposes of this Act so far as it relates to the winding-up of any company by the Court, the term "Official Assignee" means the Official Assignee under the Bankruptcy Act, 1908, of the district wherein the company’s principal office is situate, or if there are two or more such Official Assignees, then such one of them as the Court may appoint.

181. If in the case of the winding-up of any company by the Court it appears to the Court desirable, with a view to securing the more convenient and economical conduct of the winding-up, that some Official Assignee, other than the person who would by virtue of the last
preceding section be the Official Assignee, should be the
Official Assignee for the purposes of that winding-up, the
Court may appoint that other Official Assignee to act as
Official Assignee in that winding-up, and the person
so appointed shall be deemed to be the Official Assignee
in that winding-up for all the purposes of this Act.

182. (1) The Governor-General may, by Warrant
under his hand, appoint a fit person (not being an
officer of the Public Service) to be the deputy of the
Official Assignee in the winding-up of companies, or in
the winding-up of any particular company. Every such
deputy shall receive such remuneration as the Governor-
General directs.

(2) There may also be appointed an officer of the Public
Service to be the deputy of the Official Assignee in the
winding-up of companies, or in the winding-up of any
particular company.

(3) Subject to the control of the Official Assignee, every
deputy appointed under this section shall have and may
exercise, in relation to the companies in respect of which
he is so appointed, all the powers, duties, and functions
of the Official Assignee. The fact that a deputy exercises
in relation to any such company any power, duty, or
function conferred by this Act on the Official Assignee
shall be conclusive evidence of his authority so to do.

183. (1) Where the Court has made a winding-up
order or appointed a provisional liquidator, there shall,
unless the Court thinks fit to order otherwise and so orders,
be made out and submitted to the Official Assignee a
statement as to the affairs of the company in the pre-
scribed form, verified by affidavit, and showing the
particulars of its assets, debts, and liabilities, the names,
addresses, and descriptions of its creditors, the securities
held by them respectively, the dates when the securities
were respectively given, and such further or other infor-
mation as may be prescribed or as the Official Assignee
may require.

(2) The statement shall be submitted and verified
by one or more of the persons who are at the relevant
date the directors and by the person who is at that date
the secretary or other chief officer of the company, or by
such of the persons hereinafter in this subsection men-
tioned as the Official Assignee, subject to the direction
of the Court, may require to submit and verify the statement, that is to say, persons—

(a) Who are or have been directors or officers of the company:

(b) Who have taken part in the formation of the company at any time within one year before the relevant date:

(c) Who are in the employment of the company, or have been in the employment of the company within the said year, and are, in the opinion of the Official Assignee, capable of giving the information required:

(d) Who are or have been within the said year officers of or in the employment of a company which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within fourteen days from the relevant date, or within such extended time as the Official Assignee or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the Official Assignee or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the Official Assignee may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding ten pounds for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of Court and shall, on the application of the liquidator or of the Official Assignee, be punishable accordingly.

(8) In this section the expression “the relevant date” means, in a case where a provisional liquidator is appointed,
the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order.

184. (1) In a case where a winding-up order is made, the Official Assignee shall, as soon as practicable after receipt of the statement to be submitted under the last preceding section, or, in a case where the Court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the Court—

(a) As to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and

(b) If the company has failed, as to the causes of the failure; and

(c) Whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The Official Assignee may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

(3) If the Official Assignee states in any such further report as aforesaid that in his opinion a fraud has been committed as aforesaid, the Court shall have the further powers provided in sections two hundred and fifteen and two hundred and sixteen of this Act.

Liquidators.

185. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

186. (1) Subject to the provisions of this section, the Court may appoint a liquidator provisionally at any time after the presentation of a winding-up petition and before the making of a winding-up order, and either the Official Assignee or any other fit person may be appointed.
(2) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him.

187. The following provisions with respect to liquidators shall have effect on a winding-up order being made:

(a) The Official Assignee shall by virtue of his office become the provisional liquidator, and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such.

(b) The Official Assignee shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the Court for appointing a liquidator in the place of the Official Assignee.

(c) The Court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the Court shall decide the difference and make such order thereon as the Court may think fit.

(d) In a case where a liquidator is not appointed by the Court, the Official Assignee shall be the liquidator of the company.

(e) The Official Assignee shall by virtue of his office be the liquidator during any vacancy.

(f) A liquidator shall be described, where a person other than the Official Assignee is liquidator, by the style of "the liquidator", and, where the Official Assignee is liquidator, by the style of "the Official Liquidator", of the particular company in respect of which he is appointed, and not by his individual name.

188. Where in the winding-up of a company by the Court a person other than the Official Assignee is appointed liquidator, that person—

(a) Shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and has given security in accordance with the order of the Court (if any) in that behalf:
(b) Shall give the Official Assignee such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid, as may be requisite for enabling that officer to perform his duties under this Act.

189. (1) A liquidator appointed by the Court may resign or, on cause shown, be removed by the Court.

(2) Where a person other than the Official Assignee is appointed liquidator he shall receive such salary or remuneration by way of percentage or otherwise as the Court may direct, and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the Court directs.

(3) A vacancy in the office of a liquidator appointed by the Court shall be filled by the Court.

(4) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Act required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section two hundred and seventy-one of this Act, the acts of a liquidator appointed by the Court shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

190. Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled.

191. Where a company is being wound up by the Court, the Court may, on the application of the liquidator, by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the Court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose...
of effectually winding up the company and recovering its property.

192. (1) The liquidator in a winding-up by the Court shall have power with the sanction either of the Court or of the committee of inspection—

(a) To bring or defend any action or other legal proceeding in the name and on behalf of the company;

(b) To carry on the business of the company, so far as may be necessary for the beneficial winding-up thereof;

(c) To appoint a solicitor to assist him in the performance of his duties;

(d) To pay any classes of creditors in full;

(e) To make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the company, or whereby the company may be rendered liable;

(f) To compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding-up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability, or claim, and give a complete discharge in respect thereof.

(2) The liquidator in a winding-up by the Court shall have power—

(a) To sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(b) To do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and
other documents, and for that purpose to use, when necessary, the company's seal:

(e) To prove, rank, and claim in the bankruptcy or insolvency of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy or insolvency in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors:

(d) To draw, accept, make, and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or endorsed by or on behalf of the company in the course of its business:

(e) To raise on the security of the assets of the company any money requisite:

(f) To take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself:

(g) To appoint an agent to do any business which the liquidator is unable to do himself:

(h) To do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding-up by the Court of the powers conferred by this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

193. (1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, exercise and control of liquidator's powers.

19 & 20 Geo. V, c. 23, s. 192 (Imperial)
creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator that person may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

194. Every liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

195. (1) Every liquidator of a company which is being wound up by the Court shall, in such manner and at such times as the Court directs, pay the money received by him to an account in the name of the Official Assignee, or in the name of the company in liquidation, or in such other name as the Court directs, at such bank carrying on business in New Zealand as the Court appoints.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the Court in any particular case authorizes him to retain, then, unless he explains the
Companies

[1933, No. 29.]

retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall be liable to disallowance of all or such part of his remuneration as the Court may think just, and to be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account.

196. (1) The accounts of every liquidator of a company which is being wound up by the Court shall be audited by the Audit Office, and the Controller and Auditor-General shall have the same powers in respect of all moneys belonging to any such company and of all persons dealing therewith as he has by virtue of any Act for the time being in force in respect of the public moneys and of persons dealing therewith.

(2) The accounts so audited shall be open to the inspection of any creditor or contributory, or of any person interested.

(3) Within one month after the liquidator has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend (if any) to the creditors, and adjusted the rights of the contributories among themselves and made a final return (if any) to the contributories, or has resigned, or has been removed from his office, he shall prepare and submit to the Audit Office a statement of accounts and balance-sheet, showing in detail his receipts and payments in respect of such company; and the Audit Office shall forthwith prepare a report on such statement of accounts and balance-sheet, and file such report and statement and balance-sheet in the Court, and give notice to the liquidator of such filing.

(4) Every statement of accounts and balance-sheet so submitted shall be verified by a statutory declaration of the liquidator, and with the report of the Audit Office shall, when filed as aforesaid, be open to inspection without fee by any creditor or contributory, or by any person interested.

(5) Notice of the filing of every such statement of accounts and the report of the Audit Office shall be advertised by the liquidator in one or more newspapers.
circulating in the locality in which the winding-up has been conducted.

(6) If the liquidator is dissatisfied with any decision or finding of the Controller and Auditor-General, the liquidator may, within two months thereafter, appeal to the Court, which shall give such decision thereon as it thinks proper.

197. (1) The Minister of Justice shall take cognizance of the conduct of liquidators of companies which are being wound up by the Court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the Minister by any creditor or contributory in regard thereto, the Minister shall inquire into the matter, and take such action thereon as he may think expedient.

(2) The Minister may at any time require any liquidator of a company which is being wound up by the Court to answer any inquiry in relation to any winding-up in which he is engaged, and may, if the Minister thinks fit, apply to the Court to examine him or any other person on oath concerning the winding-up.

(3) The Minister may also direct a local investigation to be made of the books and vouchers of the liquidator.

198. (1) After the advertising of the filing of the statement of accounts and report referred to in section one hundred and ninety-six of this Act, the liquidator of a company which is being wound up by the Court shall apply to the Court for an order releasing him from his administration of the property of the company, and shall advertise in one or more newspapers circulating in the locality in which the winding-up has been conducted notice of his intention to make application for an order of release, and of the time at which he intends to make such application.

(2) The hearing of the application shall be on a day not less than fourteen days and not more than thirty days after the advertising of the intention to apply.

(3) On the hearing, the Court shall take into consideration the Auditor's report, and any objection which may be urged by any creditor or contributory, or person interested, against the release of the liquidator, and shall either grant or withhold the release accordingly.
(4) Where the release of a liquidator is withheld, the Court may, on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(5) An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(6) Where the liquidator has not previously resigned or been removed his release shall operate as a removal of him from his office.

Committees of Inspection.

199. (1) When a winding-up order has been made by the Court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the Court for appointing a liquidator in place of the Official Assignee, to determine further whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

(2) The Court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the Court shall decide the difference, and make such order thereon as the Court may think fit.

200. (1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories, or duly authorized officers of companies which are creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.
(2) The committee shall meet at such times as it from
time to time appoints, and, failing such appointment,
at least once a month, and the liquidator or any member
of the committee may also call a meeting of the
committee as and when he thinks necessary.

(3) The committee may act by a majority of its
members present at a meeting, but shall not act unless
a majority of the committee are present.

(4) A member of the committee may resign by notice
in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt,
or compounds or arranges with his creditors, or is absent
from five consecutive meetings of the committee without
the leave of those members who together with himself
represent the creditors or contributories, as the case may
be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by
an ordinary resolution at a meeting of creditors, if he
represents creditors, or of contributories, if he represents
contributories, of which seven days' notice has been
given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the
liquidator shall forthwith summon a meeting of creditors
or of contributories, as the case may require, to fill the
vacancy, and the meeting may, by resolution, reappoint
the same or appoint another creditor or contributory to
fill the vacancy.

(8) The continuing members of the committee, if not
less than two, may act notwithstanding any vacancy in
the committee.

201. Where there is no committee of inspection, the
Court may, on the application of the liquidator, do any
act or thing or give any direction or permission which is
by this Act authorized or required to be done or given
by the committee.

General Powers of Court in case of Winding-up by Court.

202. (1) The Court may at any time after an order
for winding-up, on the application either of the liquidator,
or the Official Assignee, or any creditor or contributory,
and on proof to the satisfaction of the Court that all
proceedings in relation to the winding-up ought to be
stayed, make an order staying the proceedings, either
altogether or for a limited time, on such terms and conditions as the Court thinks fit.

(2) On any application under this section the Court may, before making an order, require the Official Assignee to furnish to the Court a report with respect to any facts or matters which are in his opinion relevant to the application.

203. (1) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected and applied in discharge of its liabilities:

Provided that, where it appears to the Court that it will not be necessary to make calls on or adjust the rights of contributories, the Court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

204. The Court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to the liquidator any money, property, or books and papers in his hands to which the company is prima facie entitled.

205. (1) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The Court, in making such an order, may—

(a) In the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing.
or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) In the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

206. (1) The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.

(2) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

207. (1) The Court may order any contributory, purchaser, or other person from whom money is due to the company to pay the amount due into such bank carrying on business in New Zealand as the Court appoints to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into such bank in the event of a winding-up by the Court shall be subject in all respects to the orders of the Court.

208. (1) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings.
209. (1) Where the Official Assignee becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the Court, and the Court may on such application appoint a special manager of the said estate or business to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the Court.

(2) The special manager shall give such security and account in such manner as the Court directs.

(3) The special manager shall receive such remuneration as may be fixed by the Court.

(4) The special manager may at any time be removed by the Court.

210. The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

211. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

212. The Court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

213. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding-up in such order of priority as the Court thinks just.

214. (1) The Court may, at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the
promotion, formation, trade, dealings, affairs, or property of the company.

(2) The Court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

(5) A person who is summoned or examined by the Court under the authority conferred by this section shall not be excused from answering any question on the ground that the answer may criminate or tend to criminate him.

(6) A statement made by any such person in answer to any question put to him by or before the Court in proceedings under this section shall not, in criminal proceedings, be admissible in evidence against him, except upon a charge of perjury against him in respect of his sworn testimony upon such examination.

(7) Any person examined by the Court under the authority of this section may be represented by a barrister or solicitor, who may also examine him, and his answers to such barrister or solicitor shall form part of his examination.

(8) Save with the consent of the Court, on the application of the provisional liquidator or the liquidator, and subject to such conditions as the Court may prescribe, it shall not be lawful for any person to publish a report of any examination under this section, or of any matter arising in the course of such examination, and every person who, in breach of this subsection, publishes
any such report shall be liable to a fine not exceeding one hundred pounds.

215. (1) Where an order has been made for winding up a company by the Court, and the Official Assignee has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that that person, director, or officer shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The liquidator and any creditor or contributory may take part in the examination either personally or by solicitor or counsel.

(3) The Court may put such questions to the person examined as the Court thinks fit.

(4) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(5) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the Official Assignee's report, and may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him:

Provided that, if any such person applies to the Court to be exculpated from any charges made or suggested against him, it shall be the duty of the Official Assignee to appear on the hearing of the application and call the attention of the Court to any matters which appear to the Official Assignee to be relevant, and if the Court, after hearing any evidence given or witnesses called by the Official Assignee, grants the application, the Court may allow the applicant such costs as in its discretion it may think fit.

(6) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in
Power to restrain fraudulent persons from managing companies.
19 & 20 Geo. V, c. 23, s. 217 (Imperial)

Evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(7) The Court may, if it thinks fit, adjourn the examination from time to time.

(8) An examination under this section may, if the Court so directs, and subject to general rules, be held before any Stipendiary Magistrate, or before any Registrar of the Supreme Court, and the powers of the Court under this section as to the conduct of the examination may be exercised by the person before whom the examination is held.

216. (1) Where an order has been made for winding up a company by the Court, and the Official Assignee has made a further report under this Act stating that, in his opinion, a fraud has been committed by a person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the Court may, on the application of the Official Assignee, order that that person, director, or officer shall not, without the leave of the Court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the report as may be specified in the order.

(2) The Official Assignee shall, where he intends to make an application under the last preceding subsection, give not less than ten days’ notice of his intention to the person charged with the fraud, and on the hearing of the application that person may appear and himself give evidence or call witnesses.

(3) It shall be the duty of the Official Assignee to appear on the hearing of an application by him for an order under this section and on an application for leave under this section and to call the attention of the Court to any matters which appear to him to be relevant, and on any such application the Official Assignee may himself give evidence or call witnesses.

(4) If any person acts in contravention of an order made under this section he shall, in respect of each offence, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months, or
in either case to a fine not exceeding five hundred pounds or to both such imprisonment and fine.

(5) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made.

217. The Court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit New Zealand, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers, moneys, securities for money, and movable personal property to be seized, and him and them to be safely kept until such time as the Court may order.

218. Any powers by this Act conferred on the Court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

219. Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Act in respect of the following matters:

(a) The holding and conducting of meetings to ascertain the wishes of creditors and contributories;
(b) The settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;
(c) The paying, delivery, conveyance, surrender, or transfer of money, property, books, or papers to the liquidator;
(d) The making of calls;
(e) The fixing of a time within which debts and claims must be proved—
to be exercised or performed by the liquidator as an officer of the Court, and subject to the control of the Court:

Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members,
and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection.

220. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall within fourteen days from the date thereof be reported by the liquidator to the Registrar, who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator makes default in complying with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which he is in default.

(iii) VOLUNTARY WINDING-UP.

Resolutions for and commencement of Voluntary Winding-up.

221. (1) A company may be wound up voluntarily—

(a) When the period, if any, fixed for the duration of the company by the memorandum or articles expires, or the event, if any, occurs, on the occurrence of which the memorandum or articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily:

(b) If the company resolves by special resolution that the company be wound up voluntarily:

(c) If the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Act the expression "a resolution for voluntary winding-up" means a resolution passed under any of the provisions of subsection one of this section.

222. (1) When a company has passed a resolution for voluntary winding-up it shall within fifteen days after the passing of the resolution give notice of the resolution by advertisement in the Gazette, and in one or more newspapers circulating in the locality in which the registered office of the company is situated.
(2) If default is made in complying with this section the company and every officer of the company who is in default shall be liable to a default fine, and for the purposes of this subsection the liquidator of the company shall be deemed to be an officer of the company.

223. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution for voluntary winding-up.

**Consequences of Voluntary Winding-up.**

224. (1) In case of a voluntary winding-up the company shall, from the commencement of the winding-up, cease to carry on its business, except so far as may be required for the beneficial winding-up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

(2) Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the company, made after the commencement of a voluntary winding-up shall be void.

225. When a company has passed a resolution for voluntary winding-up—

(a) No action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose; and

(b) Any attachment, distress, or execution thereafter put in force against the estate or effects of the company shall be void to all intents.

**Declaration of Solvency.**

226. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding-up of the company is to be proposed are sent out, make a statutory declaration to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able
to pay its debts in full within a period, not exceeding twelve months, from the commencement of the winding-up.

(2) A declaration made as aforesaid shall have no effect for the purposes of this Act unless it is delivered to the Registrar for registration before the date mentioned in subsection one of this section.

(3) A winding-up in the case of which a declaration has been made and delivered in accordance with this section is in this Act referred to as “a members’ voluntary winding-up”, and a winding-up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as “a creditors’ voluntary winding-up”.

Provisions applicable to a Members’ Voluntary Winding-up.

227. The provisions contained in the five sections of this Act next following shall apply in relation to a members’ voluntary winding-up.

228. (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

229. (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

230. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called “the transferee company”), the liquidator of the
first-mentioned company (in this section called “the transferor company”) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive (in compensation or part compensation for the transfer or sale) shares, policies, or other like interests in the transferee company for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member’s interest, the purchase-money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding-up or for appointing liquidators, but, if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) For the purposes of an arbitration under this section, any appointment required to be made on behalf of any company may be made under the hand of the liquidator, and every such arbitration shall be conducted in accordance with the provisions of the Arbitration Act, 1908. See Reprint of Statutes, Vol. I, p. 346.
231. (1) In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding-up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding ten pounds.

232. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called in the same manner as if it were an ordinary general meeting of the company, and, in addition, notice of the meeting, specifying the time, place, and object thereof, shall, at least fourteen days before the meeting, be published in the Gazette.

(3) Within one week after the meeting the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues:

Provided that if a quorum is not present at the meeting the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall be deemed to have been complied with.

(4) The Registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the
Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within seven days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

**Provisions applicable to a Creditors’ Voluntary Winding-up**

233. The provisions contained in the eight sections of this Act next following shall apply in relation to a creditors’ voluntary winding-up.

234. (1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding-up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in the *Gazette* and once at least in two local newspapers circulating in the district where the registered office or principal place of business of the company is situate.

(3) The directors of the company shall—

(a) Cause a full statement of the position of the company’s affairs, together with a list of the creditors of the company and the estimated amount of their claims, to be laid before the meeting of creditors to be held as aforesaid; and

(b) Appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding-up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the
creditors held in pursuance of subsection one of this section shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

(a) By the company in complying with subsections one and two of this section:

(b) By the directors of the company in complying with subsection three of this section:

(c) By any director of the company in complying with subsection four of this section—the company, directors, or director, as the case may be, shall be liable to a fine not exceeding one hundred pounds, and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

235. The creditors and the company at their respective meetings mentioned in the last preceding section may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator:

Provided that in the case of different persons being nominated, any director, member, or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the Court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

236. (1) The creditors at the meeting to be held in pursuance of section two hundred and thirty-four of this Act, or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not more than three persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding-up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding three in number:
Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the Court otherwise directs, be qualified to act as members of the committee, and on any application to the Court under this provision the Court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to general rules, the provisions of section two hundred of this Act (except subsection one) shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding-up by the Court.

287. (1) The committee of inspection, or, if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the committee of inspection, or, if there is no such committee, the creditors, sanction the continuance thereof.

288. If a vacancy occurs, by death, resignation, or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the Court, the creditors may fill the vacancy.

289. The provisions of section two hundred and thirty of this Act shall apply in the case of a creditors' voluntary winding-up as in the case of a members' voluntary winding-up, with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the Court or of the committee of inspection.

240. (1) In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding-up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding-up during the preceding year.

(2) If the liquidator fails to comply with this section he shall be liable to a fine not exceeding ten pounds.
241. (1) As soon as the affairs of the company are fully wound up the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.

(2) The meeting of the company shall be called in the same manner as if it were an ordinary general meeting of the company, and, in addition, notice of the meeting, specifying the time, place, and object thereof, shall, at least fourteen days before the meeting, be published in the Gazette.

(3) The meeting of the creditors shall be called by a notice in the Gazette, specifying the time, place, and object thereof, and published at least fourteen days before the meeting. A copy of the notice shall be sent by post to every creditor at least fourteen days before the meeting.

(4) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine not exceeding five pounds for every day during which the default continues:

Provided that if a quorum is not present at either such meeting the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(5) The Registrar on receiving the account and in respect of each such meeting either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved:

Provided that the Court may, on the application of the liquidator or of any other person who appears to the
Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(6) It shall be the duty of the person on whose application an order of the Court under this section is made, within seven days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Provisions applicable to every Voluntary Winding-up.

242. The provisions contained in the eight sections of this Act next following shall apply to every voluntary winding-up whether a members' or a creditors' winding-up.

243. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding-up, be applied in satisfaction of its liabilities pari passu, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

244. (1) The liquidator may—

(a) In the case of a members' voluntary winding-up, with the sanction of an extraordinary resolution of the company, and, in the case of a creditors' voluntary winding-up, with the sanction of either the Court or the committee of inspection, exercise any of the powers given by paragraphs (d), (e), and (f) of subsection one of section one hundred and ninety-two of this Act to a liquidator in a winding-up by the Court:

(b) Without sanction, exercise any of the other powers by this Act given to the liquidator in a winding-up by the Court:

(c) Exercise the power of the Court under this Act of settling a list of contributories, and the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories:

(d) Exercise the power of the Court of making calls:
(e) Summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

Provided that in the event of a vacancy in the office of any liquidator any such power as aforesaid may be validly exercised by the liquidator or all the liquidators for the time being in office.

245. (1) If from any cause whatever there is no liquidator acting, the Court may appoint a liquidator.

(2) The Court may, on cause shown, remove a liquidator and appoint another liquidator.

246. (1) The liquidator shall, within twenty-one days after his appointment, deliver to the Registrar for registration a notice of his appointment in the form prescribed.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

247. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

248. (1) The liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding-up of a company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.
(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

249. All costs, charges, and expenses properly incurred in the winding-up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

250. The winding-up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, but in the case of an application by a contributory, the Court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding-up.

(iv) WINDING-UP SUBJECT TO SUPERVISION OF COURT.

251. When a company has passed a resolution for voluntary winding-up, the Court may make an order that the voluntary winding-up shall continue but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions, as the Court thinks just.

252. A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding-up by the Court.

253. A winding-up subject to the supervision of the Court shall, for the purposes of sections one hundred and seventy-four and one hundred and seventy-five of this Act, be deemed to be a winding-up by the Court.

254. (1) Where an order is made for a winding-up subject to supervision, the Court may by that or any subsequent order remove any liquidator appointed in the voluntary winding-up or appoint any new or additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been duly appointed in accordance with the

Costs of voluntary winding-up. 19 & 20 Geo. V., c. 23, s. 254. (Imperial) ; 1908, No. 26, s. 232 (N.Z.)

Saving for rights of creditors and contributories. Imp. s. 255 N.Z. s. 233

Power to order winding-up subject to supervision. Imp. s. 256 N.Z. s. 235 (1)

Effect of petition for winding-up subject to supervision. Imp. s. 257 N.Z. s. 235 (2)

Application of sections 174 and 175 to winding-up subject to supervision. Imp. s. 258 N.Z. s. 239

Power of Court to appoint or remove liquidators. Imp. s. 259 N.Z. s. 237
provisions of this Act with respect to the appointment of liquidators in a voluntary winding-up.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order, and fill any vacancy occasioned by the removal, or by death or resignation.

255. (1) Where an order is made for a winding-up subject to supervision the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily:

Provided that the powers specified in paragraphs (d), (e), and (f) of subsection one of section one hundred and ninety-two of this Act shall not be exercised by the liquidator except with the sanction of the Court, or, in a case where before the order the winding-up was a creditors' voluntary winding-up, with the sanction of either the Court or the committee of inspection.

(2) A winding-up subject to the supervision of the Court is not a winding-up by the Court for the purpose of the provisions of this Act which are specified in the Sixth Schedule to this Act, but, subject as aforesaid, an order for a winding-up subject to supervision shall for all purposes be deemed to be an order for winding-up by the Court:

Provided that, where the order for winding-up subject to supervision was made in relation to a creditors' voluntary winding-up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding-up by the Court for the purpose of section two hundred of this Act (except subsection one thereof), except in so far as the operation of that section is excluded in a voluntary winding-up by general rules.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING-UP.

Proof and Ranking of Claims.

256. In every winding-up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent,
ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

257. In the winding-up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding-up, and make such claims against the company as they respectively are entitled to by virtue of this section.

258. (1) In a winding-up there shall be paid in priority to all other debts—

(a) All wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the company during four months next before the relevant date, not exceeding one hundred pounds:

(b) All wages of any workman or labourer not exceeding fifty pounds, whether payable for time or for piece work, in respect of services rendered to the company during four months next before the relevant date:

(c) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, or unless the company has at the commencement of the winding-up under such a contract with insurers as is mentioned in section forty-eight of the Workers' Compensation Act, 1922, rights capable of being transferred to and vested in the worker, all amounts due in respect of any compensation or liability for compensation under the said Act accrued before the relevant date.
(2) Where any compensation under the Workers' Compensation Act, 1922, is a weekly payment, the amount due in respect thereof shall, for the purposes of paragraph (c) of subsection one of this section, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if application for that purpose were made under the said Act.

(3) Where any payment on account of wages or salary has been made to any clerk, servant, workman, or labourer in the employment of a company out of money advanced by some person for that purpose, that person shall in a winding-up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman, or labourer would have been entitled to priority in the winding-up has been diminished by reason of the payment having been made.

(4) The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) So far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(5) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(6) In the event of a landlord or other person distressing or having distressed on any goods or effects of the company within one month next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.
(7) In this section the expression "the relevant date" means—
(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and
(b) In any other case, the date of the commencement of the winding-up.

Effect of Winding-up on Antecedent and other Transactions.

259. (1) Any conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section the commencement of the winding-up shall be deemed to correspond with the date of the adjudication in bankruptcy in the case of an individual.

(3) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

260. Where a company is being wound up, a floating charge on the undertaking or property of the company created within four months of the commencement of the winding-up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except as to money actually advanced or paid, or the actual price or value of goods sold or supplied, to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per centum per annum.

261. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any
sum of money, the liquidator of the company, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the Court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding-up or such extended period as may be allowed by the Court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding-up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The Court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the Court, given notice to the applicant that he intends to apply to the Court for leave to disclaim.

(5) The Court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise,
as the Court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding-up.

(6) The Court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any person entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee by demise, except upon the terms of making that person—

(a) Subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding-up; or

(b) If the Court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date—and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Court shall have power to vest the estate and interest of the company in the property in any person liable either personally or in a representative character, and either alone or jointly with the company to perform the lessee's covenants in the lease, freed and discharged from all estates, encumbrances, and interests created therein by the company.
(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding-up.

262. (1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding-up of the company unless he has completed the execution or attachment before the commencement of the winding-up:

Provided that—

(a) Where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding-up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding-up; and

(b) A person who purchases in good faith under a sale by the Sheriff any goods of a company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator.

(2) For the purposes of this section an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

(3) In this section the expression “goods” includes all chattels personal, and the expression “Sheriff” includes any officer charged with the execution of a writ or other process.

263. (1) Where any goods of a company are taken in execution and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the Sheriff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding-up has been passed, the Sheriff shall,
on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.

(2) Where under an execution in respect of a judgment for a sum exceeding twenty pounds the goods of a company are sold or money is paid in order to avoid sale, the Sheriff shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for fourteen days, and if within that time notice is served on him of a petition for the winding-up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding-up of the company, and an order is made or a resolution is passed, as the case may be, for the winding-up of the company, the Sheriff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) In this section the expression "goods" includes all chattels personal, and the expression "Sheriff" includes any officer charged with the execution of a writ or other process.

**Offences Antecedent to or in Course of Winding-up.**

264. (1) If any person, being a past or present director, manager, or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the Court or voluntarily, or is subsequently ordered to be wound up by the Court, or subsequently passes a resolution for voluntary winding-up,—

(a) Does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or

(b) Does not deliver up to the liquidator, or as he directs, all such part of the real and personal
property of the company as is in his custody or under his control, and which he is required by law to deliver up; or

(c) Does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or

(d) Within twelve months next before the commencement of the winding-up or at any time thereafter conceals any part of the property of the company to the value of ten pounds or upwards, or conceals any debt due to or from the company; or

(e) Within twelve months next before the commencement of the winding-up or at any time thereafter fraudulently removes any part of the property of the company to the value of ten pounds or upwards; or

(f) Makes any material omission in any statement relating to the affairs of the company; or

(g) Knowing or believing that a false debt has been proved by any person under the winding-up, fails for the period of a month to inform the liquidator thereof; or

(h) After the commencement of the winding-up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or

(i) Within twelve months next before the commencement of the winding-up or at any time thereafter, conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or paper affecting or relating to the property or affairs of the company; or

(j) Within twelve months next before the commencement of the winding-up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or

(k) Within twelve months next before the commencement of the winding-up or at any time
24 GEO. V. ] Companies [1933, No. 29. 349

thereafter fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulent parting with, altering, or making any omission in, any document affecting or relating to the property or affairs of the company; or

(l) After the commencement of the winding-up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding-up attempts to account for any part of the property of the company by fictitious losses or expenses; or

(m) Has within twelve months next before the commencement of the winding-up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for; or

(n) Within twelve months next before the commencement of the winding-up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

(o) Within twelve months next before the commencement of the winding-up or at any time thereafter pawns, pledges, or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the company; or

(p) Is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding-up—he shall be guilty of an offence and shall, in the case of the offences mentioned respectively in paragraphs (m), (n), and (o) of this subsection, be liable on conviction on indictment to imprisonment for a term not exceeding five years, or on summary conviction to imprisonment for a term not exceeding twelve months, and in the case of any other offence shall be liable on conviction on
indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding twelve months:

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f), (n), and (o) if the accused proves that he had no intent to defraud, and to a charge under any of paragraphs (h), (i), and (j) if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges, or disposes of any property in circumstances which amount to an offence under paragraph (o) of subsection one of this section, every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid shall be guilty of a crime, and on conviction on indictment shall be liable to imprisonment for any term not exceeding seven years.

(3) For the purposes of this section the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

265. If any director, manager, or other officer, or contributory of any company being wound up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a crime, and on conviction on indictment shall be liable to imprisonment for any term not exceeding two years.

266. If any person, being at the time of the commission of the alleged offence a director, manager, or other officer of a company which is subsequently ordered to be wound up by the Court or which subsequently passes a resolution for voluntary winding-up—

(a) Has by false pretences or by means of any other fraud induced any person to give credit to the company; or

(b) With intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the company; or
(c) With intent to defraud creditors of the company, has concealed or removed any part of the property of the company since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the company—he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding twelve months.

267. (1) If where a company is wound up it is shown that proper books of account were not kept by the company throughout the period of two years immediately preceding the commencement of the winding-up every director, manager, or other officer of the company who was knowingly a party to or connived at the default of the company shall, unless he shows that he acted honestly or that in the circumstances in which the business of the company was carried on the default was excusable, be liable on conviction on indictment to imprisonment for a term not exceeding one year, or on summary conviction to imprisonment for a term not exceeding six months.

(2) For the purposes of this section proper books of account shall be deemed not to have been kept in the case of any company if there have not been kept such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

268. (1) If in the course of the winding-up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, the Court, on the application of the Official Assignee, or the liquidator or any creditor or contributory of the company, may, if it thinks proper so to do, declare that any of the directors, whether past
or present, of the company who were knowingly parties to the carrying-on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the Court may direct.

(2) Where the Court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and, in particular, may make provision for making the liability of any such director under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the director, company, or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection. For the purpose of this subsection the expression “assignee” includes any person to whom or in whose favour, by the directions of the director, the debt, obligation, mortgage, or charge was created, issued, or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in subsection one of this section, every director of the company who was knowingly a party to the carrying-on of the business in manner aforesaid shall be liable on conviction on indictment to imprisonment for a term not exceeding one year.

(4) The Court may, in the case of any person in respect of whom a declaration has been made under subsection one of this section, or who has been convicted of an offence under subsection three of this section, order that that person shall not, without the leave of the Court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the declaration or of the conviction, as the
case may be, as may be specified in the order, and if any person acts in contravention of an order made under this subsection he shall, in respect of each offence, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months, or in either case to a fine not exceeding five hundred pounds or to both such imprisonment and fine.

(5) For the purposes of this section the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

(6) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made, and every declaration under subsection one of this section shall be deemed to be a final judgment within the meaning of paragraph (f) of section twenty-six of the Bankruptcy Act, 1908.

(7) It shall be the duty of the Official Assignee or of the liquidator to appear on the hearing of an application for leave under subsection four of this section; and on the hearing of an application under that subsection or under subsection one of this section the Official Assignee or the liquidator, as the case may be, may himself give evidence or call witnesses.

269. (1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the Official Assignee, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.
(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) Where an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning of paragraph (f) of section twenty-six of the Bankruptcy Act, 1908.

270. (1) If it appears to the Court in the course of a winding-up by, or subject to the supervision of, the Court that any past or present director, manager, or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may, either on the application of any person interested in the winding-up or of its own motion, direct the liquidator to refer the matter to the Attorney-General.

(2) If it appears to the liquidator in the course of a voluntary winding-up that any past or present director, manager, or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the Attorney-General, and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as the Attorney-General may require.

(3) Where any report is made under the last preceding subsection to the Attorney-General, he may, if he thinks fit, refer the matter to the Registrar for further inquiry, and the Registrar shall thereupon investigate the matter, and may if he thinks it expedient apply to the Court for an order conferring on the Registrar or any person designated by the Registrar for the purpose with respect to the company concerned, all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding-up by the Court.

(4) If it appears to the Court in the course of a voluntary winding-up that any past or present director, manager, or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to
the Attorney-General under subsection two of this section, the Court may, on the application of any person interested in the winding-up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of subsection two of this section.

(5) If any matter is reported or referred to the Attorney-General under this section, no prosecution shall at any time thereafter be commenced in respect of such matter without his consent.

(6) If, where any matter is reported or referred to the Attorney-General under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall cause proceedings to be instituted accordingly, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which he is reasonably able to give. For the purposes of this subsection the expression "agent" in relation to a company shall be deemed to include any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(7) If any person fails or neglects to give assistance in manner required by subsection six of this section, the Court may, on the application of the Attorney-General, direct that person to comply with the requirements of the said subsection; and where any such application is made with respect to a liquidator the Court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

Supplementary Provisions as to Winding-up.

271. (1) A body corporate shall not be qualified for appointment as liquidator of a company, whether in a winding-up by or under the supervision of the Court or in a voluntary winding-up, and any appointment made in contravention of this provision shall be void.
(2) Nothing in this section shall disqualify a body corporate from acting as liquidator of a company if acting under an appointment made before the commencement of this Act; but, subject as aforesaid, any body corporate which acts as liquidator of a company shall be liable to a fine not exceeding one hundred pounds.

272. (1) If any liquidator, who has made any default in filing, delivering, or making any return, account, or other document, or in giving any notice which he is by law required to file, deliver, make, or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Court may, on an application made to the Court by any contributor or creditor of the company or by the Registrar, make an order directing the liquidator to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

273. (1) Where a company is being wound up, whether by or under the supervision of the Court or voluntarily, every invoice, order for goods, or business letter issued by or on behalf of the company or a liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If default is made in complying with this section the company and every director, manager, secretary, or other officer of the company, and every liquidator of the company and every receiver or manager, who knowingly and wilfully authorizes or permits the default, shall be liable to a fine not exceeding twenty pounds.

274. Where a company is being wound up all books and papers of the company and of the liquidators shall, as between the contributories of the company, be prima facie evidence of the truth of all matters purporting to be therein recorded.
275. (1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say:—

(a) In the case of a winding-up by, or subject to the supervision of, the Court, in such way as the Court directs;

(b) In the case of a members' voluntary winding-up, in such way as the company by extraordinary resolution directs, and, in the case of a creditors’ voluntary winding-up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company may direct.

(2) After five years from the dissolution of the company no responsibility shall rest on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) Provision may be made by general rules for enabling the Registrar to prevent, for such period (not exceeding five years from the dissolution of the company) as the Registrar thinks proper, the destruction of all or any of the books and papers of a company which has been wound up, and for enabling any creditor or contributory of the company to make representations to the Registrar, and to appeal to the Court from any direction which may be given by the Registrar in the matter.

(4) If any person acts in contravention of any general rules made for the purposes of this section or of any direction of the Registrar thereunder he shall be liable to a fine not exceeding one hundred pounds.

276. (1) If where a company is being wound up the winding-up is not concluded within one year after its commencement the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on
payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom.

(3) If a liquidator fails to comply with this section he shall be liable to a fine not exceeding fifty pounds for each day during which the default continues, and any person untruthfully stating himself as aforesaid to be a creditor or contributory shall be guilty of a contempt of Court, and shall, on the application of the liquidator or of the Official Assignee, be punishable accordingly.

277. Where after the commencement of this Act a resolution is passed at an adjourned meeting of any creditors or contributories of a company the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Supplementary Powers of Court.

278. (1) The Court may, as to all matters relating to the winding-up of a company, have regard to the wishes of the creditors or contributories of the company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the Court.

(2) In the case of creditors regard shall be had to the value of each creditor’s debt.

(3) In the case of contributories regard shall be had to the number of votes conferred on each contributory by this Act or the articles.

279. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part of this Act may be sworn in New Zealand, or elsewhere within the dominions of His Majesty, before any Court, Judge, or person lawfully authorized to take and receive affidavits, or may be sworn in any place outside His Majesty’s dominions before any of His Majesty’s Consuls or Vice-Consuls.

(2) All Courts, Judges, Justices, Commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such Court, Judge, person, Consul, or Vice-Consul, attached,
appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part of this Act.

Rights of the Crown.

280. The provisions of this Part of this Act, relating to the remedies against the property of a company, the priorities of debts, and the effect of an arrangement with creditors, shall bind the Crown.

Provisions as to Dissolution.

281. (1) Where a company has been dissolved the Court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, or such further time as the Court may allow, to deliver to the Registrar for registration an office copy of the order, and if that person fails so to do he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

282. (1) Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that, if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Gazette with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer to the effect that the company is not carrying on business or in
operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post, a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the Registrar shall publish in the Gazette and send to the company or the liquidator, if any, a like notice as is provided in the last preceding subsection.

(5) If any charge is registered under Part IV of this Act on any of the property of a company to which a notice published in the Gazette in accordance with subsection three or subsection four of this section relates, the Registrar shall forthwith after publication send a copy of such notice to the person or persons entitled to the charge.

(6) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown, strike the name of the company off the register, and shall publish notice thereof in the Gazette, and on the publication in the Gazette of this notice the company shall be dissolved:

Provided that—

(a) The liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved; and

(b) Nothing in this subsection shall affect the power of the Court to wind up a company the name of which has been struck off the register.

(7) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court, on an application made by the company or member or creditor before the expiration of twenty years from the publication in the Gazette of the notice aforesaid, may, if satisfied that the company
was at the time of the striking-off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the Registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(8) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

283. Where a company is dissolved all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for any other person) shall, subject and without prejudice to any order which may at any time be made by the Court under the last two preceding sections of this Act, be deemed to be bona vacantia, and shall accordingly belong to the Crown, and shall vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown.

Officers of Court.

284. The officers of the Court shall make to the Registrar such returns of the business of their respective Courts and offices in relation to the winding-up of companies, at such times, and in such manner and form, as may be prescribed, and from those returns the Registrar shall cause books to be prepared in the prescribed form, and such books shall, upon payment of the prescribed fee, be open for public information and searches.
Rules and Fees.

285. (1) General rules for carrying into effect the objects of this Act so far as relates to the winding-up of companies may be made in the manner in which rules of procedure are made under the Judicature Act, 1908.

(2) All rules made under this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and, if Parliament is not sitting, within three weeks after the beginning of the next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) There shall be paid in respect of proceedings under this Act in relation to the winding-up of companies such fees as may be prescribed by rules made under this section, and any rules so made may provide by whom and in what manner such fees are to be collected and accounted for.

PART VII.

Receivers and Managers.

286. (1) A body corporate shall not be qualified for appointment as receiver of the property of a company.

(2) Nothing in this section shall disqualify a body corporate from acting as receiver as aforesaid if acting under an appointment made before the commencement of this Act; but, subject as aforesaid, any body corporate which acts as receiver as aforesaid shall be liable to a fine not exceeding one hundred pounds.

287. Where an application is made to the Court to appoint a receiver on behalf of the debenture-holders or other creditors of a company which is being wound up by the Court, the Official Assignee may be so appointed.

288. (1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods, or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with the requirements of this section the company, and every director,
manager, secretary, or other officer of the company, and every liquidator of the company, and every receiver or manager, who knowingly and wilfully authorizes or permits the default, shall be liable to a fine not exceeding twenty pounds.

289. The Court may, on an application made to the Court by the liquidator of a company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the company, and may from time to time, on an application made either by the liquidator or by the receiver or manager, vary or amend any order so made.

290. (1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within one month, or such longer period as the Registrar may allow, after the expiration of the period of six months from the date of his appointment and of every subsequent period of six months, and within one month after he ceases to act as receiver or manager, deliver to the Registrar for registration an abstract in the prescribed form showing his receipts and his payments during that period of six months, or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment.

(2) Every receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine not exceeding five pounds for every day during which the default continues.

291. (1) If—

(a) Any receiver of the property of a company, who has made default in filing, delivering, or making any return, account, or other document, or in giving any notice, which a receiver is by law required to file, deliver, make, or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so; or

Power of Court to fix remuneration on application of liquidator. 19 & 20 Geo. V, c. 23, s. 309 (Imperial)

Delivery to Registrar of accounts of receivers and managers. Imp. s. 310

Enforcement of duty of receiver to make returns, &c. Imp. s. 311
(b) Any receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the company so to do, failed to render proper accounts of his receipts and payments and to pay over to the liquidator the amount properly payable to him; the Court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order.

(2) In the case of any such default as is mentioned in paragraph (a) of the last preceding subsection an application for the purposes of this section may be made by any member or creditor of the company or by the Registrar, and the order may provide that all costs of and incidental to the application shall be borne by the receiver, and in the case of any such default as is mentioned in paragraph (b) of that subsection the application shall be made by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of such default as is mentioned in paragraph (a) of subsection one of this section.

PART VIII.
PRIVATE COMPANIES.

292. (1) Notwithstanding anything in this Act, it shall be lawful for any number of persons not exceeding twenty-five associated for any lawful purpose, by subscribing their names to a memorandum of association as hereinafter specified, and otherwise complying with the requirements of this Act in respect of registration, to form a private company having its capital divided into shares, and having the liability of its members limited by shares, or by shares and by guarantee.

(2) Where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this Part of this Act, be treated as a single member.
293. (1) Subject to this Part of this Act, all the provisions of this Act shall, so far as applicable, apply to private companies.

(2) In the application thereof to private companies,—

(a) Paragraph (d) of subsection one of section one hundred and twenty-three of this Act (as to the quorum for meetings) shall be construed as if the reference therein to three members were a reference to two members:

(b) The following provisions of this Act shall be construed as if the references therein to seven members were references to two members:

(i) Section thirty-nine, as to carrying on business when the number of members is reduced below the legal minimum:

(ii) Paragraph (d) of section one hundred and sixty-nine, as to winding-up by the Court when the number of members is reduced below the legal minimum:

(iii) Subparagraph (i) of paragraph (a) of the proviso to subsection one of section one hundred and seventy-one, as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.

(3) The provisions of this Act which are specified in the Seventh Schedule to this Act do not apply to private companies.

294. (1) Where a company is formed under this Part of this Act the memorandum must, in addition to all other matters required by this Act to be stated therein, state that the company is a private company.

(2) All the share capital with which a private company is registered must be subscribed for in the memorandum, and shall be deemed to be allotted to the respective subscribers on the date of the incorporation of the company.

295. Every certificate of incorporation issued in respect of a private company shall state expressly that it is so issued.

296. (1) Every private company existing at the date of the commencement of this Act that has not registered its articles before that date shall within six months after that date deliver to the Registrar for registration a copy Memorandum of association.

N.Z. s. 166

Certificate of incorporation.

N.Z. s. 167

Existing companies to register articles.

Cf. N.Z. s 168 (1)
of its articles, certified under the seal of the company to be a true copy, or, if it has not made any articles, shall within that period deliver to the Registrar for registration a certificate to that effect under the seal of the company.

(2) Every such copy shall be conclusive evidence of the provisions contained in the articles of the company at the time of the registration of the copy, and every such certificate shall be conclusive evidence that at the time of the registration of the certificate the company had not made any articles.

(3) If default is made in complying with subsection one of this section, the company and every officer of the company who is in default shall be liable to a default fine.

297. If a private company enters the name of any person in its register of members (whether upon the registration of a transfer or transmission of shares, or upon the allotment of any shares, or otherwise) so as to increase the number of the members of the company beyond twenty-five, the company and every officer of the company who knowingly and wilfully authorizes or permits such entry shall be liable to a fine not exceeding fifty pounds, and a further fine not exceeding five pounds for every day during which the number of members continues in excess of twenty-five.

298. (1) It shall not be lawful for a private company or for the directors thereof to issue any prospectus inviting subscriptions for shares in its capital.

(2) A private company shall send with the annual return required by section one hundred and seventeen of this Act a certificate signed by a director or the secretary of the company that the company has not since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any such prospectus.

299. (1) No private company shall increase its share capital beyond the registered capital unless—

(a) All the new shares are subscribed for in a memorandum of subscription in the form set out in the Eighth Schedule to this Act, executed in the same manner as the memorandum of association; and
(b) The names of the subscribers of the memorandum of subscription are, on the increase being made, duly entered in the company's register of members in respect of the shares respectively so subscribed for by them.

(2) All the new shares shall be deemed to be allotted to the respective subscribers on the date on which the increase is made.

(3) In every case of an increase of capital by a private company the company shall forward the memorandum of subscription to the Registrar, together with the notice to be given pursuant to section sixty-four of this Act.

(4) If a private company increases its capital without complying with subsection one of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty pounds, and a further fine not exceeding five pounds for every day during which the default continues.

(5) If default is made in complying with subsection three of this section, the company and every officer of the company who is in default shall be liable to a default fine.

300. (1) Anything that may be done by a company registered under Part II of this Act by resolution, special resolution, or extraordinary resolution passed at a meeting of the company may, subject to any special provisions in that behalf in the articles of the company, be done by a private company in the same manner or by resolution passed, without a meeting or any previous notice being required, by means of an entry in its minute-book signed by at least three-fourths of the members, holding in the aggregate at least three-fourths in nominal value of the shares of the company.

(2) Any such entry may be signed on behalf of a member by his agent duly authorized in writing.

(3) For the purposes of this section a memorandum pasted or otherwise permanently affixed in the minute-book and purporting to have been signed for the purpose of becoming an entry therein shall be deemed to be an entry accordingly, and any such entry may
consist of several documents in like form, each signed by or on behalf of one or more members.

(4) The company shall within seven days after any resolution is passed by means of an entry in its minute-book in accordance with this section send to every member by or on behalf of whom the entry has not been signed a copy thereof, including the signatures.

(5) If default is made in complying with the last preceding subsection, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The provisions of section one hundred and twenty-six of this Act shall apply to resolutions which have been passed by means of entries in the minute-book of a private company in accordance with the foregoing provisions of this section to the same extent as if such resolutions had been passed at a meeting of the company.

(7) Where a private company passes a resolution for a creditors' voluntary winding-up by means of an entry in its minute-book in accordance with the foregoing provisions of this section, the company, in lieu of complying with the requirements of subsection one of section two hundred and thirty-four of this Act, shall cause a meeting of the creditors of the company to be summoned for a day not later than the tenth day after the day on which the resolution is passed, and shall cause notice of the said meeting to be sent by post to the creditors at least seven days before the day on which the meeting is to be held. In every such case all references in this Act to subsection one of the said section two hundred and thirty-four shall be read as references to this subsection.

301. (1) Any member of a private company shall be entitled to be furnished, within seven days after he has made a request in that behalf to the company, with a copy of the last balance-sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance-sheet, at a charge not exceeding sixpence for
every hundred words, such charge to be payable at the time when the request is made.

(2) If default is made in furnishing such a copy to any member who demands it and tenders to the company the amount of the proper charge therefor, the company and every officer of the company who is in default shall be liable to a default fine.

302. (1) If it appears to the Court on the winding-up of a private company that any member of the company acting in its affairs has, prior to the winding-up, knowingly done or omitted any act, or been party or privy to any act or omission, which, if such member were a sole trader and had been adjudged bankrupt, would render him liable to the penalty imposed by section one hundred and thirty-eight of the Bankruptcy Act, 1908, the Court may, if it finds that such act or omission has in fact prejudiced the creditors or any creditor of the company, order any such member to pay to the liquidator of the company such sum in addition to the amount for which he may be liable under the constitution of the company as to the Court may seem just.

(2) The Court may by the same or any subsequent order direct that such sum or any part thereof shall be applied in payment of the claims of any particular creditor or creditors of the company, on such terms (if any) as the Court may direct.

(3) The powers conferred by this section shall be in addition to any other powers which the Court may have on winding up.

(4) The provisions of this section shall have effect notwithstanding that the act or omission is one for which the member may be criminally liable.

(5) Where an order for payment of money is made under subsection one of this section, the order shall be deemed to be a final judgment within the meaning of paragraph (f) of section twenty-six of the Bankruptcy Act, 1908.

303. (1) Any company which is not a private company and has not for the time being more than twenty-five members may be re-registered under this Part of this Act on lodging with the Registrar an application, signed by at least three-fourths of the members, holding
in the aggregate at least three-fourths in nominal value of the shares of the company, stating—

(a) The names, addresses, and descriptions of all the members of the company, and the number of shares held by them respectively, showing that they hold in the aggregate shares to the full amount of the nominal capital of the company:

(b) That notice of the application has been given to every member of the company who has not signed it:

(c) That the applicants are satisfied that the company is solvent:

(d) That the applicants desire that the company be re-registered under this Part of this Act.

(2) The application may be signed on behalf of a member by his agent duly authorized in writing.

(3) The application shall be verified by the statutory declaration of a director of the company, and the company shall lodge with the application the company’s certificate of incorporation, and a certificate by two persons lawfully acting as, or qualified for appointment as, auditors of the company, made not more than three months prior to the date of the application, that they have investigated the affairs of the company, and that the company is at the date of such certificate a solvent company.

(4) On compliance with the requirements of the foregoing provisions of this section, and on payment of a fee of five pounds, the Registrar shall enter on the memorandum of the company a minute that the company is re-registered under this Part of this Act as a private company, and shall enter a similar minute on the certificate of incorporation of the company, and shall sign each such minute and state therein the date thereof, and thereupon the same consequences shall follow as to the rights, powers, and duties of the company as if it had originally been incorporated under this Part of this Act; and the said minutes shall be conclusive evidence of the same matters as a certificate of incorporation; but such re-registration shall not alter the identity of the corporation, or affect the rights of the company or of any person against the company.

(5) The Registrar shall make all such entries in the appropriate registers as shall be necessary to give effect to and evidence such re-registration as aforesaid.
304. (1) Any private company which has not less than seven members may be re-registered under Part II of this Act on lodging with the Registrar an application, signed by at least three-fourths of the members, holding in the aggregate at least three-fourths in nominal value of the shares of the company, stating—

(a) The names, addresses, and descriptions of all the members of the company, and the number of shares held by them respectively:

(b) That notice of the application has been given to every member of the company who has not signed it:

(c) That the applicants desire that the company be re-registered under Part II of this Act.

(2) The application may be signed on behalf of a member by his agent duly authorized in writing.

(3) The application shall be verified by the statutory declaration of a director of the company, and the company shall lodge with the application its certificate of incorporation.

(4) On compliance with the requirements of the foregoing provisions of this section, and on payment of a fee of five pounds, the Registrar shall enter on the memorandum of the company a minute that the company is re-registered under Part II of this Act, and shall enter a similar minute on the certificate of incorporation of the company, and shall sign each such minute and state therein the date thereof, and thereupon the same consequences shall follow as to the rights, powers, and duties of the company under this Act as on incorporation under Part II of this Act; and the said minutes shall be conclusive evidence of the same matters as a certificate of incorporation; but such re-registration shall not alter the identity of the corporation or affect the rights of the company or of any person against the company.

(5) The Registrar shall make all such entries in the appropriate registers as shall be necessary to give effect to and evidence such re-registration as aforesaid.

(6) The company shall within a period of fourteen days after the date of such re-registration deliver to the Registrar for registration a prospectus, or a statement in lieu of prospectus in the form and containing the particulars set out in the Ninth Schedule to this Act.
(7) If default is made in complying with the last preceding subsection, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.

PART IX.

Application of Act to Companies formed or registered under former Acts.

305. In the application of this Act to existing companies (as defined in section three hereof) it shall apply in the same manner—

(a) In the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares;

(b) In the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee;

(c) In the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company;

(d) In the case of a private company, as if the company had been formed and registered under Part VIII of this Act as a private company;

(e) In the case of a company other than a private company, as if the company had been formed and registered under Part II of this Act:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Act, 1860, the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908, as the case may be.

306. This Act shall apply to every company registered but not formed under the Joint Stock Companies Act, 1860, the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908, in the same manner as it is in Part X of this Act declared to apply to companies registered but not formed under this Act:
Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Act, 1860, the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908, as the case may be.

307. (1) This Act shall apply to every unlimited company registered as a limited company in pursuance of section two hundred and sixty-six of the Companies Act, 1882, or section two hundred and ninety-one of the Companies Act, 1903, or section two hundred and ninety-one of the Companies Act, 1908, in the same manner as it applies to an unlimited company registered in pursuance of this Act as a limited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered as a limited company under the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908, as the case may be.

(2) This Act shall apply to every company re-registered as a private company in pursuance of section one hundred and seventy-one of the Companies Act, 1903, or section one hundred and seventy-one of the Companies Act, 1908, in the same manner as it applies to a company re-registered in pursuance of this Act as a private company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was re-registered as a private company under the Companies Act, 1903, or the Companies Act, 1908, as the case may be.

(3) This Act shall apply to every company re-registered under Part I of the Companies Act, 1903, in pursuance of section one hundred and seventy-two of that Act, or under Part II of the Companies Act, 1908, in pursuance of section one hundred and seventy-two of that Act, in the same manner as it applies to a company re-registered under Part II of this Act in pursuance of section three hundred and four hereof:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was re-registered under Part I of the Companies Act, 1903, or Part II of the Companies Act, 1908, as the case may be.
308. (1) A company registered under the Joint Stock Companies Act, 1860, may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

(2) The power of altering articles under section twenty-three of this Act shall, in the case of an unlimited company formed and registered under the Joint Stock Companies Act, 1860, extend to altering any regulations relating to the amount of capital or to its distribution into shares, notwithstanding that those regulations are contained in the memorandum.

PART X.

COMPANIES NOT FORMED UNDER THIS ACT AUTHORIZED TO REGISTER UNDER THIS ACT.

309. (1) With the exceptions and subject to the provisions contained in this section,—

(a) Any company consisting of seven or more members, which was in existence on the first day of October, eighteen hundred and eighty-two (being the date of the commencement of the Companies Act, 1882), including any company registered under the Joint Stock Companies Act, 1860; and

(b) Any company formed after the date aforesaid, whether before or after the commencement of this Act, in pursuance of any Act of the Imperial Parliament or of the General Assembly (other than this Act), or of letters patent, or being otherwise duly constituted according to law, and consisting of seven or more members,—may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up:

Provided that—

(a) A company registered under the Companies Act, 1882, the Companies Act, 1903, or the Companies Act, 1908, shall not register in pursuance of this section:
(b) A company having the liability of its members limited by Act of the Imperial Parliament or of the General Assembly, or by letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section:

(c) A company having the liability of its members limited by Act of the Imperial Parliament or of the General Assembly, or by letters patent, shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee:

(d) A company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares:

(e) A company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose:

(f) Where a company not having the liability of its members limited by Act of the Imperial Parliament or of the General Assembly, or by letters patent, is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting:

(g) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.
Definition of joint stock company.
19 & 20 Geo. V, c. 23, s. 322 (Imperial); 1008, No. 26, s. 274 (N.Z.)

Requirements for registration by joint stock companies.
Imp. s. 323
N.Z. ss. 275, 277

(2) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

310. For the purposes of this Part of this Act, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company when registered with limited liability under this Act shall be deemed to be a company limited by shares.

311. Before the registration in pursuance of this Part of this Act of a joint stock company, there shall be delivered to the Registrar the following documents:—

(a) A list showing the names, addresses, and descriptions of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number:

(b) A copy of any Act of the Imperial Parliament or of the General Assembly, Royal charter, letters patent, deed of settlement, or other instrument constituting or regulating the company; and

(c) If the company is intended to be registered as a limited company, a statement specifying the following particulars:—

(i) The nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;

(ii) The number of shares taken and the amount paid on each share;

(iii) The name of the company with the addition of the word "Limited" as the last word thereof; and
(iv) In the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

312. Before the registration in pursuance of this Part of this Act of any company not being a joint stock company, there shall be delivered to the Registrar—

(a) A list showing the names, addresses, and descriptions of the directors or other managers (if any) of the company; and

(b) A copy of any Act of the Imperial Parliament or of the General Assembly, letters patent, deed of settlement, or other instrument constituting or regulating the company; and

(c) In the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

313. The lists of members and directors and any other particulars relating to the company required to be delivered to the Registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

314. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.

315. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some other Act of the Imperial Parliament or of the General Assembly, or by letters patent.

316. When a company registers in pursuance of this Part of this Act with limited liability, the word “Limited” shall form, and be registered as, part of its name.

317. On compliance with the requirements of this Part of this Act with respect to registration, and on payment of such fees, if any, as are payable under the First Schedule to this Act, the Registrar shall certify under his hand that the company applying for
registration is incorporated as a company under this Act, and in the case of a limited company, that it is limited, and thereupon the company shall be so incorporated.

**318.** All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this Part of this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

**319.** Registration of a company in pursuance of this Part of this Act shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

**320.** All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part of this Act are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place:

Provided that execution shall not issue against the effects of any individual member of the company on any judgment, decree, or order obtained in any such action or proceeding, but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company.

**321.** (1) When a company is registered in pursuance of this Part of this Act, the following provisions of this section shall have effect.

(2) All provisions contained in any Act of the Imperial Parliament or of the General Assembly, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered
memorandum, and the residue thereof were contained in registered articles.

(3) All the provisions of this Act shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows:

(a) Table A shall not apply unless adopted by special resolution:

(b) The provisions of this Act relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered:

(c) Subject to the provisions of this section, the company shall not have power to alter any provision contained in any Act of the Imperial Parliament or of the General Assembly relating to the company:

(d) Subject to the provisions of this section, the company shall not have power, without the sanction of the Court, to alter any provision contained in any letters patent relating to the company:

(e) The company shall not have power to alter any provision contained in a Royal charter or letters patent with respect to the objects of the company:

(f) In the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid:

(g) In the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of
the winding-up, all sums due from him in respect of any such liability as aforesaid, and, in the event of the death or bankruptcy of any contributory, or the marriage of any female contributory, the provisions of this Act with respect to the personal representatives of deceased contributories, to the assignees of bankrupt contributories, and to the liabilities of husbands and wives respectively, shall apply.

(4) The provisions of this Act with respect to—

(a) The registration of an unlimited company as limited;

(b) The powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding-up;

(c) The power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding-up—

shall apply notwithstanding any provisions contained in any Act of the Imperial Parliament or of the General Assembly, Royal charter, or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorize the company to alter any such provisions contained in any instrument constituting or regulating the company as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum, and are not authorized to be altered by this Act.

(6) Nothing in this Act shall derogate from any power of altering its constitution or regulations which may, by virtue of any Act of the Imperial Parliament or of the General Assembly, or other instrument constituting or regulating the company, be vested in the company.

(7) In this section the expression "instrument" includes deed of settlement and letters patent.
322. (1) Subject to the provisions of this section, a company registered in pursuance of this Part of this Act may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(2) The provisions of this Act with respect to confirmation by the Court and registration of an alteration of the objects of a company shall so far as applicable apply to an alteration under this section with the following modifications:—

(a) There shall be substituted for the printed or typewritten copy of the altered memorandum required to be delivered to the Registrar a printed or typewritten copy of the substituted memorandum and articles; and

(b) On the registration of the alteration being certified by the Registrar the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression "deed of settlement" includes any instrument constituting or regulating the company, not being an Act of the Imperial Parliament or of the General Assembly, a Royal charter, or letters patent.

323. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part of this Act, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

324. Where an order has been made for winding up a company registered in pursuance of this Part of this Act, no action or proceeding shall be commenced or
proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

PART XI.

WINDING-UP OF UNREGISTERED COMPANIES.

325. For the purposes of this Part of this Act the expression "unregistered company" shall include any savings-bank constituted under the Savings-banks Act, 1908, and any partnership, association, or company, with the following exceptions:—

(a) A company registered under the Joint Stock Companies Act, 1860, or under the Companies Act, 1882, or under the Companies Act, 1903, or under the Companies Act, 1908, or under this Act:

(b) A partnership, association, or company formed in New Zealand and consisting of less than eight members:

(c) A special partnership under Part II of the Partnership Act, 1908.

326. (1) Subject to the provisions of this Part of this Act, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to an unregistered company, with the following exceptions and additions:—

(a) The principal place of business in New Zealand of an unregistered company shall, for all the purposes of the winding-up, be deemed to be the registered office of the company:

(b) No unregistered company shall be wound up under this Act voluntarily or subject to supervision:

(c) The circumstances in which an unregistered company may be wound up are as follows:—

   (i) If the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs; or
(ii) If the company is unable to pay its debts; or

(iii) If the Court is of opinion that it is just and equitable that the company should be wound up:

(d) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(i) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business in New Zealand, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor; or

(ii) If any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business in New Zealand, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same; or
(iii) If execution or other process issued on a judgment, decree, or order obtained in any Court in favour of a creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied; or

(iv) If it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Where a company incorporated outside New Zealand which has been carrying on business in New Zealand ceases to carry on business in New Zealand, it may be wound up as an unregistered company under this Part of this Act, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country where it was incorporated.

(3) Nothing in this Part of this Act shall affect the operation of any enactment which provides for any partnership, association, or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

327. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of the death or bankruptcy of any contributory, or the marriage of any female contributory, the provisions of this Act with respect to the personal representatives of deceased contributories, to the assignees of bankrupt contributories, and to the liabilities of husbands and wives respectively, shall apply.
328. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

329. Where an order has been made for winding up an unregistered company no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

330. The provisions of this Part of this Act with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part of this Act.

PART XII.

COMPANIES INCORPORATED OUTSIDE NEW ZEALAND CARRYING ON BUSINESS WITHIN NEW ZEALAND.

331. This Part of this Act shall apply to all companies incorporated outside New Zealand which, after the commencement of this Act, establish a place of business within New Zealand, and to all companies incorporated outside New Zealand which have, before the commencement of this Act, established a place of business within New Zealand and continue to have an established place of business within New Zealand at the commencement of this Act.
332. (1) Companies incorporated outside New Zealand which, after the commencement of this Act, establish a place of business within New Zealand shall, within one month from the establishment of the place of business, deliver to the Registrar for registration—

(a) A certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof:

(b) A list of the directors of the company, containing such particulars with respect to the directors as are by this Act required to be contained with respect to directors in the register of the directors of a company:

(c) The names and addresses of some one or more persons resident in New Zealand authorized to accept on behalf of the company service of process and any notices required to be served on the company.

(2) Companies incorporated outside New Zealand which at the commencement of this Act have a place of business within New Zealand shall, within six months from the commencement of this Act, deliver to the Registrar for registration the documents and particulars specified in the last preceding subsection.

(3) A certificate of incorporation given under the hand of any officer who may by the law of any country outside New Zealand in which a company purports to be incorporated be authorized to grant such certificate, duly verified by declaration made by one of the directors or the manager of the company before a Mayor, Provost, notary public, British Consul or Vice-Consul, or other person lawfully authorized to take such declaration, shall be conclusive evidence that the company has been duly incorporated.

(4) The date of incorporation mentioned in such certificate or in such declaration shall be deemed to be the date at which the company was incorporated; or, if no such date be mentioned, then the date of such certificate shall be deemed to be the date at which the company was incorporated.
(5) Any such certificate and declaration may be delivered to the Registrar for registration with any documents under subsection one of this section.

(6) Where no certificate of incorporation has been given the documents delivered to the Registrar for registration under paragraph (a) of subsection one of this section shall, if the fact that the company is incorporated is stated therein or appears therefrom, be sufficient evidence of that fact.

(7) Nothing herein shall be construed as limiting the power of any Court to receive any evidence of the incorporation of a company that it deems sufficient.

333. (1) A company incorporated outside New Zealand which has delivered to the Registrar the documents and particulars specified in paragraphs (a), (b), and (c) of subsection one of the last preceding section shall have the same power to hold lands in New Zealand as if it were a company incorporated under this Act.

(2) The provisions of Part XI of the Property Law Act, 1908, shall, with the necessary modifications, apply with respect to any power of attorney executed by a company to which this Part of this Act applies to the same extent as if the company were a person and as if the commencement of the winding-up of the company were the death of a person within the meaning of the said Part XI.

(3) A declaration endorsed upon or annexed to any instrument appointing, or purporting to appoint, an attorney of a company incorporated outside New Zealand, made or purporting to be made by one of the directors before a Mayor, Provost, notary public, British Consul or Vice-Consul, or other person lawfully authorized to take such declaration, to the effect that—

(a) The company is incorporated under the style mentioned in the instrument, in accordance with the law of the country where it is so incorporated, the name of the country being specified in the declaration; and

(b) The seal affixed thereto is the common seal of the said company; and

(c) The seal has been affixed, and the instrument executed, and the powers and authorities purporting to be conferred upon the attorney are authorized to be conferred under the
Power of attorney receivable in evidence.

Cf. 1908, No. 26, s. 304 (N.Z.)

Return to be delivered to Registrar where documents, &c., altered.
19 & 20 Geo. V, c. 23, s. 346 (Imperial)

Balance-sheet of company carrying on business in New Zealand.
Imp. s. 347

constitution of the company, or in pursuance of the Act or instrument under which the company is incorporated, or by the regulations for the time being thereof; and

(d) The declarant is a director or general manager of the company,—

shall be conclusive evidence of the facts set forth therein.

(4) In cases where by the law of the country where the company is incorporated no seal is necessary, or the company has no seal, the existence of such law or the fact that the company has no seal may be stated in such declaration, and the provisions of this section may be modified and shall take effect accordingly.

(5) Any power of attorney in respect of which any such declaration has been made as aforesaid, and any certified copy of such power of attorney, shall, for all purposes, be receivable in evidence without further proof of the sealing, signature, or other execution thereof.

(6) Any such power of attorney and declaration may be delivered to the Registrar for registration with any documents registered under subsection one of the last preceding section.

334. If in the case of any company to which this Part of this Act applies any alteration is made in—

(a) The charter, statutes, or memorandum and articles of the company or any such instrument as aforesaid; or

(b) The directors of the company or the particulars contained in the list of the directors; or

(c) The names or addresses of the persons authorized to accept service on behalf of the company,—

the company shall, within the prescribed time, deliver to the Registrar for registration a return containing the prescribed particulars of the alteration.

335. (1) Every company to which this Part of this Act applies shall in every calendar year, and at intervals of not more than fifteen months, make out a balance-sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting, and deliver a copy of that balance-sheet to the Registrar for registration.
(2) If any such balance-sheet is not written in the English language there shall be annexed to it a certified translation thereof.

(3) Every company to which this Part of this Act applies shall cause to be kept at its principal place of business in New Zealand proper books of account with respect to—

(a) All sums of money received and expended by the company in relation to its New Zealand business, and the matters in respect of which the receipt and expenditure takes place;

(b) All sales and purchases of goods by the company in relation to its New Zealand business;

(c) The assets and liabilities of the company in relation to its New Zealand business.

336. Every company to which this Part of this Act applies shall—

(a) In every prospectus inviting subscriptions for its shares or debentures in New Zealand state the country in which the company is incorporated; and

(b) Conspicuously exhibit on every place where it carries on business in New Zealand the name of the company and the country in which the company is incorporated; and

(c) Cause the name of the company and of the country in which the company is incorporated to be stated in legible characters in all bill-heads and letter-paper, and in all notices, advertisements, and other official publications of the company; and

(d) If the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters in every such prospectus as aforesaid and in all bill-heads, letter-paper, notices, advertisements, and other official publications of the company in New Zealand, and to be affixed on every place where it carries on its business.

337. Any process or notice required to be served on a company to which this Part of this Act applies shall be sufficiently served if addressed to any person whose name has been delivered to the Registrar under this Part of this Act and left at or sent by post to the address which has been so delivered:
Provided that—

(a) Where any such company makes default in delivering to the Registrar the name and address of a person resident in New Zealand who is authorized to accept on behalf of the company service of process or notices; or

(b) If at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served;

da document may be served on the company by leaving it at or sending it by post to any place of business established by the company in New Zealand.

338. (1) If any company to which this Part of this Act applies ceases to have a place of business in New Zealand, it shall forthwith give notice of the fact to the Registrar, and, subject to the provisions of the next succeeding subsection, the obligation of the company to deliver any document to the Registrar shall cease as from the date on which notice is so given.

(2) Not less than three months’ notice of its intention to cease to have a place of business in New Zealand as aforesaid shall be given by the company by notice published in at least three consecutive issues of the Gazette and of some newspaper circulating at each place in New Zealand where the company has a place of business, and any notice to the Registrar under the last preceding subsection shall not take effect before the expiration of three months from the date of the publication in accordance with this subsection of the first notice in the Gazette.

339. If any company to which this Part of this Act applies fails to comply with any of the foregoing provisions of this Part of this Act, the company, and every officer or agent of the company, shall be liable to a fine not exceeding fifty pounds, or, in the case of a continuing offence, five pounds for every day during which the default continues.

340. For the purposes of this Part of this Act—
The expression “certified” means certified in the prescribed manner to be a true copy or a correct translation:
The expression "director" in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act:

The expression "place of business" includes a share transfer or share registration office:

The expression "prospectus" has the same meaning as when used in relation to a company incorporated under this Act.

**PART XIII.**

RESTRICTIONS ON SALE OF SHARES OR DEBENTURES AND OFFERS OF SHARES OR DEBENTURES FOR SALE.

341. (1) It shall not be lawful for any person—

(a) To issue, circulate, or distribute in New Zealand any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside New Zealand, whether the company has or has not established, or when formed will or will not establish, a place of business in New Zealand, unless—

(i) Before the issue, circulation, or distribution of the prospectus in New Zealand a copy thereof, certified by the chairman and two other directors (or, if there are less than three directors, then by all the directors) of the company as having been approved by resolution of the managing body, has been delivered for registration to the Registrar;

(ii) The prospectus states on the face of it that the copy has been so delivered;

(iii) The prospectus is dated;

(iv) The prospectus otherwise complies with this Part of this Act; or

(b) To issue to any person in New Zealand a form of application for shares in or debentures of such a company or intended company as aforesaid, unless the form is issued with a prospectus which complies with this Part of this Act:

Provisions with respect to prospectuses of companies incorporated outside New Zealand inviting subscriptions for shares or offering shares for sale.

19 & 20 Geo. V, c. 23, s. 354 (Imperial)
Provided that this provision shall not apply if it is shown that the form of application was issued in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(2) This section shall not apply to the issue to existing members or debenture-holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(3) Where any document by which any shares in or debentures of a company incorporated outside New Zealand are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section forty-nine of this Act to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this section, a prospectus issued by the company.

(4) An offer of shares or debentures for subscription or sale to any person whose ordinary business or part of whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this section.

(5) Section forty-eight of this Act shall extend to every prospectus to which this section applies.

(6) Any person who is knowingly responsible for the issue, circulation, or distribution of any prospectus, or for the issue of a form of application for shares or debentures, in contravention of the provisions of this section shall be liable to a fine not exceeding five hundred pounds.

(7) In this and the next succeeding section the expressions "prospectus", "shares", and "debentures" have the same meanings as when used in relation to a company incorporated under this Act.
342. (1) In order to comply with this Part of this Act a prospectus in addition to complying with the provisions of subparagraphs (ii) and (iii) of paragraph (a) of subsection one of the last preceding section must—

(a) Contain particulars with respect to the following matters—

(i) The objects of the company;

(ii) The instrument constituting or defining the constitution of the company;

(iii) The enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected;

(iv) An address in New Zealand where the said instrument, enactments, or provisions or copies thereof, and if the same are in a foreign language a translation thereof certified in the prescribed manner, can be inspected;

(v) The date on which and the country in which the company was incorporated;

(vi) Whether the company has established a place of business in New Zealand, and, if so, the address of its principal office in New Zealand:

Provided that the provisions of subparagraphs (i), (ii), (iii), and (iv) of this paragraph shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business:

(b) Subject to the provisions of this section, state the matters specified in Part I of the Third Schedule to this Act (other than those specified in paragraph one of the said Part I) and set out the reports specified in Part II of that Schedule, subject always to the provisions contained in Part III of the said Schedule:

Provided that—

(i) Where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the
company if the advertisement specifies the primary object with which the company was formed; and

(ii) In paragraph three of Part I of the said Third Schedule a reference to the constitution of the company shall be substituted for the reference to the articles; and

(iii) Paragraph one of Part III of that Schedule shall have effect as if the reference to the memorandum were omitted therefrom.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

(a) As regards any matter not disclosed, he proves that he was not cognizant thereof; or

(b) He proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

(c) The non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in paragraph fifteen of Part I of the Third Schedule to this Act, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act, apart from this section.
343. (1) In this section, unless the context otherwise requires, the expression "shares" means the shares of a company, whether a company within the meaning of this Act or not, and includes debentures and units, and the expression "unit" means any right or interest (by whatever name called) in a share, and for the purposes of this section a person shall not in relation to a company be regarded as not being a member of the public by reason only that he is a holder of shares in the company or a purchaser of goods from the company. Without limiting the generality of the foregoing provisions of this section, the term "shares" shall, for the purposes of this section, include all such instruments (commonly called bonds) as confer or purport to confer on the holders thereof any claim against a company, whether such claim is present or future, or certain or contingent, or ascertained or sounding only in damages.

(2) It shall not be lawful for any person to go from house to house offering shares for subscription or purchase to the public or any member of the public. In this subsection the expression "house" shall not include an office used for business purposes, or any other premises used by the occupier wholly or partly for the purpose of carrying on any trade, business, profession, or calling. Nothing in this subsection shall apply with respect to the offering for subscription of shares in any co-operative dairy company or other co-operative company.

(3) Subject as hereinafter provided in this subsection, it shall not be lawful to make an offer in writing to any member of the public (not being a person whose ordinary business or part of whose ordinary business it is to buy or sell shares, whether as principal or agent) of any shares for purchase, unless the offer is accompanied by a statement in writing (which must be signed by the person making the offer and dated) containing such particulars as are required by this section to be included therein and otherwise complying with the requirements of this section, or, in the case of shares in a company incorporated outside New Zealand, either by such a statement as aforesaid, or by such a prospectus as complies with this Part of this Act:
Provided that the provisions of this subsection shall not apply—

(a) Where the shares to which the offer relates are shares which are quoted on, or in respect of which permission to deal has been granted by, any stock exchange registered under the Sharebrokers Act, 1908, and approved by the Minister of Finance for the purposes of this section, and the offer so states and specifies the stock exchange; or

(b) Where the shares to which the offer relates are shares which a company has allotted or agreed to allot with a view to their being offered for sale to the public; or

(c) Where the offer was made only to persons with whom the person making the offer has been in the habit of doing regular business in the purchase or sale of shares.

(4) The written statement aforesaid shall not contain any matter other than the particulars required by this section to be included therein, and shall not be in characters less large or less legible than any characters used in the offer or in any document sent therewith.

(5) The said statement shall contain particulars with respect to the following matters—

(a) Whether the person making the offer is acting as principal or agent:

(b) The date on which and the country in which the company was incorporated and the address of its registered or principal office in New Zealand:

(c) The authorized share capital of the company and the amount thereof which has been issued, the classes into which it is divided, and the rights of each class of shareholders in respect of capital, dividends, and voting:

(d) The dividends, if any, paid by the company on each class of shares during each of the three financial years immediately preceding the offer, and if no dividend has been paid in respect of shares of any particular class during any of those years, a statement to that effect:

(e) The total amount of any debentures issued by the company and outstanding at the date of
the statement, together with the rate of interest payable thereon:

(f) The names and addresses of the directors of the company:

(g) Whether or not the shares offered are fully paid up, and, if not, to what extent they are paid up:

(h) Whether or not the shares are quoted on, or permission to deal therein has been granted by, any registered or recognized stock exchange in New Zealand or elsewhere, and, if so, which, and, if not, a statement that they are not so quoted or that no such permission has been granted:

(i) Where the offer relates to units, particulars of the names and addresses of the persons in whom the shares represented by the units are vested, the date of and the parties to any document defining the terms on which those shares are held, and an address in New Zealand where that document or a copy thereof can be inspected.

In this subsection the expression “company” means the company by which the shares to which the statement relates were or are to be issued.

(6) If any person acts, or incites, causes, or procures any person to act, in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds or to both such imprisonment and fine, and in the case of a second or subsequent offence to imprisonment for a term not exceeding twelve months or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine.

(7) Where a person convicted of an offence under this section is a company (whether a company within the meaning of this Act or not), every director and every officer concerned in the management of the company shall be guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.

(8) Where any person is convicted of having made an offer in contravention of the provisions of this
section the Court before which he is convicted may order that any contract made as a result of the offer shall be void, and, where it makes any such order, may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any shares. Where an order is made under this subsection (whether with or without consequential directions) an appeal against the order and the consequential directions, if any, shall lie to the Supreme Court.

PART XIV.

SPECIAL PROVISIONS AS TO COMPANIES CARRYING ON INSURANCE BUSINESS (OTHER THAN LIFE INSURANCE).

344. (1) In this Part of this Act, unless the context otherwise requires, the expression "paid-up capital intact", in relation to any company, means paid-up capital clear of all claims or demands for the time being due or pending or enforceable against the company, not being contingent liabilities arising out of or in relation to the business of the company.

(2) This Part of this Act applies to every class of insurance business except life insurance and any insurance business commonly carried on by life insurance companies as such.

Local Companies.

345. (1) Except as provided in this section, no limited company shall carry on in New Zealand any class of insurance business to which this Part of this Act applies unless it has a paid-up capital intact of not less than fifty thousand pounds.

(2) A limited company may commence any such insurance business in New Zealand if it has a paid-up capital intact of not less than twenty-five thousand pounds and additional capital called up and payable within six months after the date of registration of the company of an amount not less than the difference between fifty thousand pounds and the amount of such paid-up capital:

Provided that no such company shall carry on any such business after the expiration of eight months from the date of its registration unless it has a paid-up capital intact of not less than fifty thousand pounds.
(3) A limited company may carry on within New Zealand the business of insuring the property of its own members, and of no other person, if it has an issued capital of not less than fifty thousand pounds of which not less than twenty-five thousand pounds is paid-up capital intact:

Provided that no such company shall at any time before it has a paid-up capital intact of not less than fifty thousand pounds insure the property of any person other than a member holding a share or shares in the company to a nominal amount of not less than ten pounds paid up to the extent of not less than five pounds.

(4) If any company insures the property of any person in contravention of the last preceding subsection, the company and every officer of the company who is in default shall be liable to a fine of fifty pounds for every insurance so effected.

346. (1) If any balance-sheet of a limited company carrying on in New Zealand any class of insurance business to which this Part of this Act applies shows a paid-up capital intact of less than fifty thousand pounds (or, in a case where subsection three of the last preceding section applies, of less than twenty-five thousand pounds) the directors of the company shall, without delay, call up sufficient capital to make up such amount of fifty thousand pounds or twenty-five thousand pounds, as the case may be, and such additional capital shall be payable within four months from the date of the balance-sheet which showed the deficiency of paid-up capital intact.

(2) After the expiration of a period of six months from the date of such balance-sheet, if such additional capital is not paid up, the company shall cease to carry on any such insurance business in New Zealand as a limited company; and if it continues to carry on any such business the members of the company shall be liable for its debts, contracts, and engagements as if the company were an unlimited company.

347. If any company carries on any business in contravention of the foregoing provisions of this Part of this Act, the company and every officer of the company who is in default shall be liable to a default fine of fifty pounds.
348. (1) Every company shall, before it commences to carry on in New Zealand any class of insurance business to which this Part of this Act applies and once in every year during which it carries on such business, make a statement in the form set out in the Tenth Schedule to this Act, or as near thereto as circumstances admit.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement on payment of a sum not exceeding sixpence.

(4) If default is made in complying with this section, the company and every director and manager of the company who knowingly and wilfully authorizes or permits the default shall be liable to a fine not exceeding five pounds for every day during which the default continues.

Companies incorporated outside New Zealand.

349. (1) No company incorporated outside New Zealand and having the liability of its members limited shall carry on in New Zealand any class of insurance business to which this Part of this Act applies unless it has a paid-up capital intact of not less than fifty thousand pounds.

(2) If any balance-sheet of any such company shows a paid-up capital intact of less than fifty thousand pounds, and the deficiency is not made up within six months after the date of such balance-sheet, the onus of proof of which shall lie on the company; the company shall be incapable of carrying on any such insurance business in New Zealand, and shall cease to carry on any such business until this Act has been fully complied with.

(3) If any such company carries on any business in contravention of this section, the company and every attorney, agent, or other officer of the company who is in default shall be liable to a default fine of fifty pounds.

(4) The foregoing provisions of this section shall be in addition to and not in restriction of any provisions elsewhere in this Act contained with respect to companies incorporated outside New Zealand.
PART XV.

SPECIAL PROVISIONS AS TO MINING COMPANIES.

350. In this Part of this Act, unless the context otherwise requires,—

“Mining company” means a company formed for mining purposes or having mining purposes among its objects:

“Mining purposes” means the purpose of obtaining any precious metal or precious stone of any kind by any method whereby the soil or earth, or any rock or stone, may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed, or otherwise dealt with for the purpose of obtaining such precious metal or precious stone, whether such metal or stone is the property of the Crown, or of any company, or of any person whomsoever; and includes the purchase, construction, erection, and maintenance of machinery of any kind, and letting the same for hire, for all or any such purposes as aforesaid; and also includes the purchase, construction, erection, and maintenance of races, sluices, and water-courses, and the letting or selling of the water or water-power therefrom or thereof for all or any such purposes as aforesaid.

351. Subject to the provisions of this Part of this Act, a mining company shall be registered in the same manner, and with the same consequences in all things, as a company limited by shares.

352. Subject as aforesaid, all the provisions of this Act relating to companies limited by shares shall, so far as applicable and with the necessary modifications, extend and apply to mining companies.

353. All mining companies registered or deemed to be registered under the Companies Act, 1908, shall be deemed to be registered as mining companies under this Act.

354. (1) A mining company may be registered as either—

(a) A company limited by shares; or
(b) A no-liability company, meaning thereby a company formed on the principle that there is no contract between the company and its members that the members will pay or be liable in respect of their shares for any calls, or any contribution towards the debts and liabilities of the company, in which case the words “No Liability” shall form the last words of the name of the company.

(2) Unless it is a company limited by shares, a company that is not a mining company may not alter its objects so as to include mining purposes therein.

355. A mining company shall have power to hold mining privileges under any Act for the time being in force relating to mining.

Transfer of Shares.

356. (1) No share in a mining company shall be deemed to be transferred unless and until the name of the transferee is entered in respect thereof in the register of members upon the registration of a transfer in accordance with this section.

(2) The transferor of a share in a mining company, or, where there are more transferors than one, then the transferor who first executes the transfer, shall, at the time of executing the transfer, attach to his signature the true date of signing, and such date shall be deemed to be the date of the transfer.

(3) The transferee shall present the transfer for registration in the books of the company within forty-two days from the date of the transfer if it was executed in New Zealand, within seventy days if executed in the Commonwealth of Australia or in Fiji, and within one hundred and twenty days if executed in any other place.

(4) On receipt of any transfer the secretary of the mining company shall forthwith endorse thereon the true date on which it was received.

(5) A transfer that is presented for registration at any time within one hundred and twenty days from its date (whether executed in New Zealand or elsewhere) may be registered at any time within such period of one hundred and twenty days, but no transfer shall be registered by any mining company after the expiration
of one hundred and twenty days from its date without the authority of a Judge of the Supreme Court, who, upon reasonable cause being shown why the transfer was not previously registered, may order the secretary to register the transfer upon such terms or conditions as the Judge thinks fit.

(6) Every transferor of a share in a mining company who signs a transfer in which the true date of signing is not inserted as provided in subsection two of this section, and every company that registers a transfer contrary to this section, and every secretary of a mining company who neglects to endorse on any transfer the true date upon which it was received for the purpose of registration, is liable to a fine not exceeding ten pounds; and if the transferee fails to cause the transfer to be presented for registration within the time prescribed by subsection three of this section he shall be liable to a fine not exceeding twenty pounds.

357. If a member of a mining company, with a view to evading the liabilities incident to a share held by him in the company, transfers such share upon some trust or understanding under or according to which he is to be entitled at any future time to have retransferred to him or to resume the ownership of or to have any interest in such share, he shall be disabled from enforcing in any Court any trust for him in such share.

Recovery of Calls and Forfeiture of Shares.

358. (1) The amount of any unpaid call on a share in any mining company (other than a no-liability company) may, in proceedings commenced within twenty-eight days after the call became payable, but not otherwise (except as provided in section three hundred and sixty-three of this Act), be recovered as a debt due from the holder of the share to the company.

(2) In any proceedings under this section it shall be sufficient to state that the defendant is indebted to the company in the sum due for the call and the day on which the call became payable.

(3) A copy of the resolution of the directors of the company declaring a call to be payable on that day, verified as being a true copy by the statutory declaration of the secretary of the company (whose signature
and position as secretary it shall not be necessary to prove), shall be *prima facie* evidence that such call was duly made.

(4) If the amount of any judgment obtained in any such proceedings is not paid within twenty-one days after the date of the judgment, the share shall at the expiration of such twenty-one days be absolutely forfeited, without any resolution of directors or other proceeding.

359. Where proceedings under the last preceding section have not been commenced, and the call remains unpaid at the expiration of twenty-eight days after the day on which it became payable, or where a call on any share in a no-liability company remains unpaid for a like period, such share shall thereupon be absolutely forfeited, without any resolution of directors or other proceeding.

360. Notwithstanding the forfeiture of any share in a mining company other than a no-liability company, the holder of the share at the time of its forfeiture shall continue to be subject to the provisions of section one hundred and sixty-three of this Act.

361. (1) Not later than fourteen days after any share is forfeited, the secretary of the mining company shall send by registered letter addressed to the person registered in respect of such share, at his address appearing in the register, notice of the forfeiture, and of the time and place of the intended sale of the share under the provisions of the next succeeding section.

(2) If such notice is not sent as aforesaid the secretary of the company shall be liable to a fine not exceeding ten pounds.

362. (1) The directors of the mining company shall cause every forfeited share to be offered for sale by public auction, not less than twenty-eight nor more than sixty days after the forfeiture.

(2) The date and place appointed for such auction shall be advertised not less than seven nor more than fourteen days before such date in a newspaper circulating in the neighbourhood where the registered office of the company is situate and also where its mining operations are carried on.

(3) In the case of a forfeited share in a no-liability company, the directors may offer the same for auction
on the condition that the share may be withdrawn from sale if there is no bid equal to the amount of the unpaid call thereon; but in all other cases the share shall be offered without reserve.

(4) If any forfeited share is not offered for sale as prescribed in this section, the directors and secretary of the company shall each be liable to a fine not exceeding ten pounds in respect of each share not so offered.

363. (1) If the share is sold at the sale, the proceeds shall be applied in payment of any calls due or made at the date of the sale, and of the expense of the advertisement, and any other expenses necessarily incurred in respect of the forfeiture and auction sale, and, where proceedings have been taken for the recovery of any such call, of all costs and expenses incurred against the member in respect of such proceedings, and the balance (if any) shall be paid to him upon his delivering to the company the scrip representing such forfeited share.

(2) If the share is not sold, or if it is sold for less than the amount of the calls, together with the costs and expenses as aforesaid, such amount or the balance thereof, as the case may be, shall (except in the case of shares in a no-liability company) be recoverable from the member in any Court of competent jurisdiction as a debt due to the company.

364. (1) If any forfeited share in a mining company offered for sale by public auction is not sold, it shall forthwith be registered in the name of the company, and shall, until reissued, be the property of the company; but no liability shall attach to the company in respect of any such share, which shall be deemed to be held in trust for the company.

(2) Before any shares held in trust for the company as aforesaid are reissued, notice in writing shall, unless the company in general meeting otherwise determines, be sent to every member of the company offering the shares to the members in proportion as nearly as may be to the number of shares previously held by each member respectively, and on such terms as the directors think fit.
Redemption of forfeited shares.
1908, No. 26, s. 359 (N.Z.)

Office to be open the day before sale.
N.Z. s. 360

Extraordinary meeting to be convened when one-third of shares in company forfeited.
N.Z. s. 361

(3) Any such offer shall remain open for fourteen days from the date of the notice, after which the directors may offer to the public the shares offered to and not accepted by any member.

365. Notwithstanding anything hereinbefore contained, the registered holder of any forfeited share in a mining company at the time of its forfeiture may, at any time up to or on the day immediately preceding that on which it is intended to sell the share, redeem it by payment to the company of all calls made thereon, and of all expenses incurred by the company in respect of the forfeiture, and of all costs and expenses of any such proceedings that may have been taken as aforesaid; and upon such payment the secretary shall re-enter the name of such person in the register of members, and he shall thereupon be entitled to the share as if the forfeiture had not been incurred.

366. On the day immediately preceding that on which a forfeited share in a mining company is to be offered for sale the company's office shall be open during the hours for which it is by the regulations of the company to be kept open on days when it is by such regulations to be open.

367. (1) Whenever shares equal to one-third in number or value of the total nominal capital of a mining company have become forfeited, and have been registered in the name of the company as hereinbefore provided, the directors shall within seven days thereafter convene an extraordinary meeting of the members of the company.

(2) The notice convening such meeting shall specify the names of the members who have forfeited their shares, and the number and nominal value of the shares so forfeited, and shall declare the business of the meeting to be to take into consideration the position of the company, and to provide for the disposal of the forfeited shares in accordance with the provisions of this Act.

(3) If the directors fail within the said seven days to call such meeting the same may be convened by any five or more members who have not forfeited their shares.
Dividends.

368. A dividend on any share in a mining company on which a call is due and unpaid shall be applied firstly in or towards payment of the unpaid call, and the holder of the share shall be entitled to receive only the balance (if any) of the dividend.

Accounts.

369. (1) The books of account of a mining company shall during office hours be open to the inspection of the members and creditors of the company on payment of a fee of one shilling.

(2) Any creditor of a mining company who is not entitled to receive a copy without charge under subsection two of section one hundred and thirty-eight of this Act shall be entitled to be furnished, within two days after he has made a request in that behalf to the company, and on payment at the time of the request of a reasonable fee to be fixed by the company, with a copy of the last balance-sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance-sheet.

(3) If default is made in permitting any inspection by, or in furnishing any document to, any person who is entitled under this section to make such inspection or to receive such document, as the case may be, and who tenders to the company the proper charge therefor, the company and every officer of the company who is in default shall be liable to a default fine.

Mining Companies incorporated outside New Zealand.

370. (1) With respect to every company incorporated outside New Zealand and formed for mining purposes within the meaning of this Part of this Act, or of the Mining Act, 1926, or having such purposes among its objects, the following provisions shall apply:—

(a) Such company, while carrying on in New Zealand any mining operations within the meaning of the Mining Act, 1926, or any business relating to mining purposes within the meaning of this Part of this Act, shall at all times make adequate provision for the registration
in New Zealand of transfers of its shares, and for the execution and issue in New Zealand of scrip certificates or other documents of title in respect of such shares (hereinafter referred to as scrip certificates) and for that purpose—

(i) Shall have a registered office in New Zealand, and shall give notice of the situation of such office, and of any change therein, to the Registrar within one month after the date of commencing such mining operations or business, or of the change, as the case may be; and also

(ii) Shall duly cause to be kept at its registered office in New Zealand a branch register (to be called the New Zealand Register), wherein shall be entered the name, address, and, if known, the description of every member who makes application in writing to be entered therein, and also the numbers and other necessary particulars of the shares to which his application relates; and also

(iii) Shall duly appoint and empower an attorney in New Zealand to do or cause to be done all things necessary for the purpose of there registering transfers of shares entered in the New Zealand Register, and executing and issuing on behalf of the company the scrip certificates in respect of such shares; and also

(iv) May prescribe the mode in which a member shall apply to be entered in the New Zealand Register, or to be removed from the New Zealand Register to the register (if any) kept abroad (hereinafter called the Foreign Register), and, generally, from one register to the other:

Provided that it shall not be lawful for any member to be entered on both the New Zealand and the Foreign Register at the same time in respect of the same shares; and also

(v) May prescribe reasonable fees (not exceeding one shilling) to be paid on each
application for entry in the New Zealand Register, or removal from one register to another, and a reasonable time (not exceeding four months) to elapse between the application being made and the entry or removal being effected.

(b) The provisions of sections one hundred and five to one hundred and twelve, three hundred and fifty-six, and three hundred and fifty-seven of this Act shall apply to every New Zealand Register, and to every member and share entered therein, and to every transfer of any such share.

(c) Every such company shall, within three months after any report or balance-sheet is submitted to any meeting of its members held out of New Zealand,—

(i) File in its registered office in New Zealand a true copy of such report or balance-sheet; and

(ii) Permit the same to be inspected at all reasonable times by any member in New Zealand without fee.

(d) If default is made in complying with any of the provisions of this section, the defaulting company, and every director, attorney, secretary, and manager, or other person acting in the management thereof, shall be severally liable to a fine not exceeding five pounds for every day during which such default continues.

(2) The foregoing provisions of this section shall be in addition to, and not in restriction of, any provisions elsewhere in this Act contained with respect to companies incorporated outside New Zealand.

General.

371. Nothing in this Part of this Act shall be construed to alter or affect any of the provisions of the several agreements entered into by the Governor-General, or any other person acting on behalf of the Governor-General, whereby gold-mining has been authorized on any Native land, or to affect prejudicially the rights and interests of the Native owners under any such agreement.
PART XVI.

Prohibition of Partnerships with more than Twenty Members.

372. (1) Except as provided in the next succeeding subsection, no company, association, or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of the Imperial Parliament or of the General Assembly, or of letters patent.

(2) The limitation of numbers imposed on associations by the last preceding subsection shall not apply with respect to any association with which a Department of the Government, or a local authority, or any person, arranges or enters into a contract for the execution of works of any kind wholly or in part by labour, skilled or unskilled, upon the basis of co-operation of the labourers, with or without the inclusion in such co-operation of supervisors, managers, and other specially skilled persons.

Provisions relating to Banks.

373. (1) In this section the term "bank" means a bank as defined by the Banking Act, 1908.

(2) No company having for its object or for its principal object the carrying on in New Zealand of the business of banking shall be formed or registered under this Act.

(3) The provisions of sections one hundred and thirteen to one hundred and fifteen of this Act (relating to branch registers) shall apply with respect to every bank incorporated in New Zealand as if such bank were a company formed and registered under this Act:

Provided that if any such bank is also incorporated in a place outside New Zealand a register of any members of the bank kept outside New Zealand shall not be deemed to be a branch register within the meaning of this Act, but for the purposes of the Death Duties Act, 1921, or
any other Act, every such register shall be deemed to be a 
branch register kept in accordance with this Act.

(4) The provisions of Part XIII of this Act (imposing 
restrictions on the sale of shares or debentures and on the 
offer of shares or debentures for sale) shall not apply with 
respect to shares in or debentures of any bank as herein-
before defined, but shall apply with respect to shares in or 
debentures of any other company incorporated or to be 
incorporated outside New Zealand for the purpose of 
carrying on the business of banking, whether in New 
Zealand or elsewhere.

(5) Except as provided in the foregoing provisions of 
this section, nothing in this Act shall apply to banks.

Miscellaneous Offences.

374. (1) If any person in any return, report, certifi-
cate, balance-sheet, or other document required by or 
for the purposes of any of the provisions of this Act 
specified in the Eleventh Schedule hereto, willfully makes 
a statement false in any material particular, knowing it 
to be false, he shall be liable on conviction on indictment 
to imprisonment for a term not exceeding two years, and 
be liable on summary conviction to imprisonment for a 
term not exceeding four months, and also be liable in either 
case to a fine not exceeding one hundred pounds in lieu of 
or in addition to such imprisonment as aforesaid.

(2) Nothing in the last preceding subsection shall 
affect the liability of any person under any other Act, 
but no person shall by virtue of this section be 
punished twice for the same offence.

375. If any person or persons trade or carry on 
business under any name or title of which "Limited", 
or any contraction or imitation of that word, is the 
last word, that person or those persons shall, unless 
duly incorporated with limited liability, be liable to a 
fine not exceeding five pounds for every day upon 
which that name or title has been used.

General Provisions as to Offences.

376. (1) Where by any enactment in this Act it is 
provided that a company and every officer of the 
company who is in default shall be liable to a default 
fine, the company and every such officer shall, for 
every day during which the default, refusal, or 

Penalty for false statement. 
19 & 20 Geo. V, 
c. 23, s. 362 
(Imperial) ; 
1908, No. 26, 
ss. 79, 80 (N.Z.)

Penalty for improper use of word 
"Limited". 
Imp. s. 364

Provision with 
respect to 
default fines, 
and meaning of 
"officer in 
default". 
Imp. s. 365
contravention continues, be liable to a fine not exceeding such amount as is specified in the said enactment, or, if the amount of the fine is not so specified, to a fine not exceeding five pounds.

(2) For the purpose of any enactment in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression “officer who is in default” means any director, manager, secretary, or other officer of the company, who knowingly and wilfully authorizes or permits the default, refusal, or contravention mentioned in the enactment.

377. (1) All offences under this Act made punishable by any fine may be prosecuted under the Justices of the Peace Act, 1927.

(2) Notwithstanding anything to the contrary in the Justices of the Peace Act, 1927, any information for an offence against this Act punishable on summary conviction may be laid at any time within three years after the date of the offence.

378. Nothing in this Act shall be taken to require any person who has acted as solicitor for any person to disclose any privileged communication made to him in that capacity.

Service of Documents and Legal Proceedings.

379. (1) A document may be served on a company by leaving it at the company’s registered office, or by sending it through the post in a registered letter addressed to the company at that office.

(2) Any document to be served by post on the company shall be posted in such time as to admit of its being delivered in the due course of post within the period (if any) prescribed for the service thereof; and in proving service of any such document it shall be sufficient to prove that it was properly directed, and that it was duly put into the post-office as a registered letter.

380. Where a limited company is plaintiff in any action or other legal proceeding, any Court or Judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.
381. (1) If in any proceeding for negligence, default, breach of duty, or breach of trust against a person to whom this section applies it appears to the Court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty, or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty, or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty, or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as under this section it would have had if it had been a Court before which proceedings against that person for negligence, default, breach of duty, or breach of trust had been brought.

(3) Where any case to which subsection one of this section applies is being tried by a Judge with a jury, the Judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the Judge may think proper.

(4) The persons to whom this section applies are the following:—
(a) Directors of a company:
(b) Managers of a company:
(c) Officers of a company:
(d) Persons employed by a company as auditors, whether they are or are not officers of the company.

382. Orders made by the Court under this Act may be enforced in the same manner as orders made in an action pending therein.
Tables and Forms.

383. (1) The Governor-General may from time to time, by Order in Council, alter Table A, the form in the Tenth Schedule, and the table of fees in the First Schedule to this Act, so that he does not increase the amount of fees payable to the Registrar under the said First Schedule, and may in like manner alter or add to Tables B, C, D, and E in the Second Schedule, and the form in the Fifth Schedule to this Act.

(2) Any such table or form, when altered, shall be published in the Gazette, and thenceforth shall have the same force as if it were included in one of the Schedules to this Act, but no alteration made by the Governor-General in Table A shall affect any company registered before the alteration, or shall repeal, as respects that company, any portion of that Table.

Repeals and Savings.

384. (1) The enactments mentioned in the Twelfth Schedule to this Act are hereby repealed.

(2) All offices, appointments, rules, regulations, articles, resolutions, registers, registrations, certificates, and generally all acts of authority which originated under any of the enactments hereby repealed and are subsisting or in force on the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) Subject to the next succeeding subsection, all matters and proceedings commenced under any such enactment and pending or in progress on the commencement of this Act may be continued, completed, and enforced under this Act.

(4) The provisions of this Act with respect to winding-up shall not apply to any company of which the winding-up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not been passed, and, for the purposes of the winding-up, the Act or Acts under which the winding-up commenced shall be deemed to remain in full force.
TABLE OF FEES TO BE PAID TO THE REGISTRAR OF COMPANIES.

I. FEES PAYABLE ON REGISTRATION OR ON INCREASE OF CAPITAL BY A COMPANY HAVING A SHARE CAPITAL.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>For registration of a company whose nominal share capital does not exceed £2,000</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For registration of a company whose nominal share capital exceeds £2,000: The above fee of £5 with the following additional fees, regulated according to the amount of nominal share capital, that is to say, —</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For every £1,000 of nominal share capital, or part of £1,000 after the first £2,000, up to £5,000</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For every £1,000 of nominal share capital, or part of £1,000, after the first £5,000, up to £100,000</td>
<td>0</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>For every £1,000 of nominal share capital, or part of £1,000, after the first £100,000</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

For registration of any increase of share capital made after the first registration of the company: The same fees per £1,000, or part of £1,000, as would have been payable if the increased share capital had formed part of the original capital at the time of registration: Provided that no company shall be liable to pay in respect of nominal share capital, on registration or afterwards, any greater amount of fees than £50, taking into account, in the case of fees payable on an increase of share capital after registration, the fees paid on registration.

For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act: The same fee as is charged for registering a new company.

II. FEES PAYABLE ON REGISTRATION OR ON INCREASE OF MEMBERS BY A COMPANY NOT HAVING A SHARE CAPITAL.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>For registration of a company whose number of members as stated in the articles does not exceed 20</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For registration of a company whose number of members as stated in the articles exceeds 20, but does not exceed 100</td>
<td>10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For registration of a company whose number of members as stated in the articles exceeds 100 but is not stated</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
to be unlimited: The above fee of £10 with an additional £s. for every additional 50 members or less after the first 100.

For registration of a company in which the number of members is stated in the articles to be unlimited .. 20 0 0

For registration of any increase in the number of members made after the registration of the company, in respect of every 50 members, or less than 50 members, of that increase .. 0 5 0

Provided that no company shall be liable to pay on the whole a greater fee than £20 in respect of its number of members, taking into account the fee paid on the first registration of the company.

For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act: The same fee as is charged for registering a new company.

III. MISCELLANEOUS FEES.

For recording any alteration of the objects of a company 1 0 0

For registering under Part IV (with the exception of section 101) of this Act the instrument creating or evidencing any charge required to be registered thereunder (to be computed in the case of a series of debentures as on one charge for the total amount secured by the whole series)—

Where the amount of the charge does not exceed £200 0 10 0

Where the amount exceeds £200 or is not specified .. 1 0 0

Where two or more instruments create or evidence a charge or charges securing the same moneys, for every such instrument after the first .. 0 5 0

For registering the instrument creating or evidencing any charge under section 101 of this Act .. 0 5 0

For registering any document by this Act required or authorized to be registered or required to be delivered, sent, or forwarded to the Registrar and not otherwise charged, other than the memorandum or the abstract required to be delivered to the Registrar by a receiver or manager or the statement required to be sent to the Registrar by a liquidator .. 0 5 0

For making a record of any fact by this Act required or authorized to be recorded by the Registrar and not otherwise charged .. 0 5 0

For any certificate of incorporation after the first 0 5 0

For a certified copy of or extract from any document .. 0 5 0

For a copy of or extract from any document, over and above the fee for certifying the same, for each folio of seventy-two words, not exceeding .. 0 0 6

For every inspection of any document .. 0 1 0

For an inspection of five or more documents relating to a single company .. 0 5 0
SECOND SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations—

"The Act" means the Companies Act, 1933:

When any provision of the Act is referred to, the reference is to that provision as modified by any statute for the time being in force:

Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company shall have the meanings so defined.

Shares.

2. Subject to the provisions, if any, in that behalf of the memorandum of association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the company is liable, to be redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall, mutatis mutandis, apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class, and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost, or destroyed it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity as the directors think fit.

6. No part of the funds of the company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 56 (1) of the Act.
Lien.

7. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company’s lien, if any, on a share shall extend to all dividends payable thereon.

8. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

Calls on Shares.

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days’ notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest upon the sum at the rate of six per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes
payable at a fixed time, whether on account of the amount of the share or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six per centum per annum) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve:—

I, , of , in consideration of the sum of £ paid to me by , of , (hereinafter called "the said transferee"), do hereby transfer to the said transferee the shares numbered in , Limited, to hold unto the said transferee, subject to the several conditions on which I hold the same; and I, the said transferee, do hereby agree to take the said shares subject to the conditions aforesaid.

As witness our hands the day of , 19.

Witness to the signatures of, &c.

19. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless—

(a) A fee not exceeding two shillings and sixpence is paid to the company in respect thereof; and

(b) The instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

20. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.
21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. Where the registered holder of any share dies or becomes bankrupt his personal representatives or the assignee of his estate, as the case may be, shall, upon the production of such evidence as may from time to time be properly required by the directors in that behalf, be entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the company, or to voting, or otherwise), as the registered holder would have been entitled to if he had not died or become bankrupt. Where two or more persons are jointly entitled to any share in consequence of the death of the registered holder they shall, for the purposes of these regulations, be deemed to be joint holders of the share.

Forfeiture of Shares.

23. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

24. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

27. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receives payment in full of the nominal amount of the shares.

28. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive
evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof, and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of, and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase-money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.

29. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

30. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

31. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

32. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words “share” and “shareholder” therein shall include “stock” and “stockholder”.

Alteration of Capital.

34. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the company in general meeting, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept
the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

37. The company may by ordinary resolution—
(a) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
(b) Subdivide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of section 62 (1) (d) of the Act;
(c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The company may by special resolution reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings.

39. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 122 of the Act. If at any time there are not within New Zealand sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

42. Subject to the provisions of section 125 (2) of the Act relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business,
the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

46. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

48. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote or by one member or two members so present and entitled, if that member or those two members together hold not less than
fifteen per centum of the paid-up capital of the company, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

53. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

**Votes of Members.**

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. (1) A member who is a mentally defective person within the meaning of the Mental Defectives Act, 1911, may vote by his committee or other person having authority to administer his estate; subject to the provisions of a protection order made under the Aged and Infirm Persons Protection Act, 1912, a member may vote in respect of any shares that are subject to such protection order by the manager appointed in that protection order; a member in respect of whose estate an administrator or interim curator has been appointed under Part III of the Prisons Act, 1908, or under the Reformatory Institutions Act, 1909, may vote by such administrator or interim curator. Any such committee, manager, administrator, interim curator, or other person as aforesaid may vote either on a show of hands or on a poll, and, on a poll, may vote by proxy.

(2) The provisions of this subclause apply in respect of members who are not living in New Zealand and to whom the provisions of the last preceding subclause are accordingly not applicable. Every such member who is of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by that Court, and any such committee, curator bonis, or other person may, on a poll, vote by proxy.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

58. On a poll votes may be given either personally or by proxy.
59. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:

............... Limited.

I, (of , being a member of , Limited, hereby appoint , of , or, failing him, , of , or, failing him, , as my proxy to vote for me and on my behalf at the ordinary (or extraordinary, as the case may be) general meeting of the company to be held on the day of , 19 , and at any adjournment thereof.

Signed this day of , 19 .

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

63. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

65. The remuneration of the directors shall from time to time be determined by the company in general meeting.

66. The qualification of a director shall be the holding of at least one share in the company.

Powers and Duties of Directors.

67. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not, by the Act, or by these articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general
meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

68. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation or retirement of directors; but his appointment shall be subject to determination ipso facto if he ceases from any cause to be a director, or if the company in general meeting resolves that his tenure of the office of managing director or manager be determined.

69. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

70. The directors shall cause minutes to be made in books provided for the purpose—

(a) Of all appointments of officers made by the directors;
(b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
(c) Of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

71. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

72. The office of director shall be vacated, if the director—

(a) Ceases to be a director by virtue of section 148 of the Act; or
(b) Without the consent of the company in general meeting holds any other office of profit under the company except that of managing director or manager; or
(c) Becomes bankrupt; or
(d) Becomes prohibited from being a director by reason of any order made under section 216 or 268 of the Act; or
(e) Becomes of unsound mind, or becomes a protected person under the Aged and Infirm Persons Protection Act, 1912; or
(f) Resigns his office by notice in writing to the company; or
(g) Is directly or indirectly interested in any contract with the company or participates in the profits of any contract with the company:
Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation or firm which has entered into contracts with or done any work for the company if he shall have declared the nature of his interest in manner required by section 155 of the Act, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

73. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

74. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

75. A retiring director shall be eligible for re-election.

76. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto, and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

77. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

78. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

79. The directors shall have power at any time, and from time to time, to appoint a person as an additional director, who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

80. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

81. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a
second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

82. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds three be three, and when the number of directors does not exceed three be two.

83. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company but for no other purpose.

84. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

85. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

86. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

87. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

88. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

89. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

90. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

91. No dividend shall be paid otherwise than out of profits.

92. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so
long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purpose of this article as paid on the share.

93. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves, which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

94. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

95. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled thereto or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders as the case may be may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders as the case may be may direct.

96. No dividend shall bear interest against the company.

Accounts.

97. The directors shall cause proper books of account to be kept with respect to—

(a) All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
(b) All sales and purchases of goods by the company; and
(c) The assets and liabilities of the company.

98. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of any director.

99. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company, except as conferred by statute or authorized by the directors or by the company in general meeting.

100. The directors shall from time to time, in accordance with section 131 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance-sheets, and reports as are referred to in that section.
101. A copy of every balance-sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors’ report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

102. Auditors shall be appointed and their duties regulated in accordance with sections 139, 140, and 141 of the Act.

Notices.

103. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within New Zealand) to the address, if any, within New Zealand supplied by him to the company for the giving of notices to him. Where a notice is sent by post service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of twenty-four hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

104. If a member has no registered address within New Zealand and has not supplied to the company an address within New Zealand for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

105. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

106. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or assignee of the bankrupt, or by any like description, at the address, if any, within New Zealand supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

107. Notice of every general meeting shall be given in some manner hereinbefore authorized to (a) every member except those members who (having no registered address within New Zealand) have not supplied to the company an address within New Zealand for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. Except as provided in section 141 (4) of the Act (in respect of the auditors of the company), no other persons shall be entitled to receive notices of general meetings.
TABLE B.

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1. The name of the company is "The Wellington Steamship Company, Limited."

2. The objects for which the company is established are: The conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing of all such other things as are incidental or conducive to the attainment of the above object.

3. The liability of the members is limited.

4. The share capital of the company is two hundred thousand pounds divided into one thousand shares of two hundred pounds each.

We, the several persons whose names, addresses, and descriptions are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

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<th>Description</th>
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Total shares taken ... ... ... ... ...

Dated the day of , 19.

Witness to the above signatures—

Signature:

Description:

Address:

TABLE C.

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL.

Memorandum of Association.

1. The name of the company is "The Nelson School Association, Limited."

2. The objects for which the company is established are the carrying on of a school for boys in the City of Nelson, and the doing of all such other things as are incidental or conducive to the attainment of the above object.

3. The liability of the members is limited.

4. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the
debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten pounds.

We, the several persons whose names, addresses, and descriptions are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

<table>
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<tr>
<th>Name in Full</th>
<th>Address</th>
<th>Description</th>
<th>Signature</th>
</tr>
</thead>
</table>

Dated the day of , 19 .

Witness to the above signatures—

Signature:
Description:
Address:

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

Preliminary.

1. In these regulations—
"The Act" means the Companies Act, 1933:
When any provision of the Act is referred to the reference is to such provision as modified by any statute for the time being in force:
Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company shall have the meanings so defined.

Members.

2. The number of members with which the company proposes to be registered is 500, but the directors may from time to time register an increase of members.
3. The subscribers of the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

General Meetings.

4. The first general meeting shall be held at such time (not being less than one month nor more than three months after the incorporation of the company) and at such place as the directors may determine.
5. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in
the third month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

7. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 122 of the Act. If at any time there are not within New Zealand sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

**Notice of General Meetings.**

8. Subject to the provisions of section 125 (2) of the Act relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

**Proceedings at General Meetings.**

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition
of members, shall be dissolved; in any other case it shall stand
adjourned to the same day in the next week, at the same time and
place, and if at the adjourned meeting a quorum is not present within
half an hour from the time appointed for the meeting the members
present shall be a quorum.

13. The chairman, if any, of the board of directors shall preside
as chairman at every general meeting of the company.

14. If there is no such chairman, or if at any meeting he is not
present within fifteen minutes after the time appointed for holding
the meeting, or is unwilling to act as chairman, the members present
shall choose some one of their number to be chairman.

15. The chairman may, with the consent of any meeting at which
a quorum is present (and shall if so directed by the meeting), adjourn
the meeting from time to time and from place to place, but no business
shall be transacted at any adjourned meeting other than the business
left unfinished at the meeting from which the adjournment took
place. When a meeting is adjourned for ten days or more, notice
of the adjourned meeting shall be given as in the case of an original
meeting. Save as aforesaid, it shall not be necessary to give any
notice of an adjournment or of the business to be transacted at an
adjourned meeting.

16. At any general meeting a resolution put to the vote of the
meeting shall be decided on a show of hands, unless a poll is (before
or on the declaration of the result of the show of hands) demanded
by at least two members present in person or by proxy entitled to
vote, and, unless a poll is so demanded, a declaration by the chairman
that a resolution has, on a show of hands, been carried, or carried
unanimously, or by a particular majority, or lost, and an entry to that
effect in the book of the proceedings of the company, shall be con­
cclusive evidence of the fact, without proof of the number or proportion
of the votes recorded in favour of, or against, that resolution.

17. If a poll is duly demanded it shall be taken in such manner
as the chairman directs, and the result of the poll shall be deemed to
be the resolution of the meeting at which the poll was demanded.

18. In the case of an equality of votes, whether on a show of
hands or on a poll, the chairman of the meeting at which the show of
hands takes place or at which the poll is demanded shall be entitled
to a second or casting vote.

19. A poll demanded on the election of a chairman or on a question
of adjournment shall be taken forthwith. A poll demanded on any
other question shall be taken at such time as the chairman of the
meeting directs.

Votes of Members.

20. Every member shall have one vote.

21. (1) A member who is a mentally defective person within the
meaning of the Mental Defectives Act, 1911, may vote by his com-
mittee or other person having authority to administer his estate;
subject to the provisions of a protection order made under the Aged
and Infirm Persons Protection Act, 1912, a member may vote in
respect of any shares that are subject to such protection order by the
manager appointed in that protection order; a member in respect of
whose estate an administrator or interim curator has been appointed
under Part III of the Prisons Act, 1908, or under the Reformatory Institutions Act, 1909, may vote by such administrator or interim curator. Any such committee, manager, administrator, interim curator, or other person as aforesaid may vote either on a show of hands or on a poll, and, on a poll, may vote by proxy.

(2) The provisions of this subclause apply in respect of members who are not living in New Zealand and to whom the provisions of the last preceding subclause are accordingly not applicable. Every such member who is of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by that Court, and any such committee, curator bonis, or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the seal or under the hand of an officer or attorney so authorized. A proxy need not be a member of the company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

26. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:

I, of , being a member of , Limited, hereby appoint , of , or, failing him, , of , or, failing him, , of , as my proxy to vote for me and on my behalf at the ordinary (or extraordinary, as the case may be) general meeting of the company to be held on the day of , 19 , and at any adjournment thereof.

Signed this day of , 19 .

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

28. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.
29. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

30. The remuneration of the directors shall from time to time be determined by the company in general meeting.

Powers and Duties of Directors.

31. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Act, or by these articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

32. The directors shall cause minutes to be made in books provided for the purpose—

(a) Of all appointments of officers made by the directors;
(b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
(c) Of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

33. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

34. The office of director shall be vacated, if the director—

(a) Without the consent of the company in general meeting holds any office of profit under the company; or
(b) Becomes bankrupt; or
(c) Becomes prohibited from being a director by reason of any order made under section 216 or 268 of the Act; or
(d) Becomes of unsound mind, or becomes a protected person under the Aged and Infirm Persons Protection Act, 1912; or
(e) Resigns his office by notice in writing to the company; or
(f) Is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section 155 of the Act.
A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

**Rotation of Directors.**

35. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

36. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

37. A retiring director shall be eligible for re-election.

38. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

39. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

40. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

41. The directors shall have power at any time, and from time to time, to appoint a person as an additional director, who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

42. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

**Proceedings of Directors.**

43. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

44. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds three be three, and when the number of directors does not exceed three be two.
45. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

46. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

47. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

48. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

49. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

50. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Accounts.

51. The directors shall cause proper books of account to be kept with respect to—

(a) All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
(b) All sales and purchases of goods by the company; and
(c) The assets and liabilities of the company.

52. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of any director.

53. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company, except as conferred by statute or authorized by the directors or by the company in general meeting.
54. The directors shall from time to time, in accordance with section 131 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance-sheets, and reports as are referred to in that section.

55. A copy of every balance-sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors' report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

56. Auditors shall be appointed and their duties regulated in accordance with sections 139, 140, and 141 of the Act.

Notices.

57. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within New Zealand) to the address, if any, within New Zealand supplied by him to the company for the giving of notices to him. Where a notice is sent by post service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected at the expiration of twenty-four hours after the letter containing the same was posted.

58. If a member has no registered address within New Zealand and has not supplied to the company an address within New Zealand for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

59. Notice of every general meeting shall be given in some manner hereinbefore authorized to every member except those members who (having no registered address within New Zealand) have not supplied to the company an address within New Zealand for the giving of notices to them. Except as provided in section 141 (4) of the Act (in respect of the auditors of the company), no other persons shall be entitled to receive notices of general meetings.

<table>
<thead>
<tr>
<th>Name in Full.</th>
<th>Address</th>
<th>Description</th>
<th>Signature</th>
</tr>
</thead>
</table>

Dated the day of , 19 .

Witness to the above signatures—

Signature :
Description :
Address :
1. The name of the company is "The Wakatipu Hotel Company, Limited."

2. The objects for which the company is established are: The facilitating of travelling in the Lake District of Otago, by providing hotels and conveyances by land and by water for the accommodation of travellers, and the doing of all such other things as are incidental or conducive to the attainment of the above object.

3. The liability of the members is limited.

4. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges, and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty pounds.

5. The share capital of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

We, the several persons whose names, addresses, and descriptions are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

<table>
<thead>
<tr>
<th>Name in Full.</th>
<th>Address</th>
<th>Description</th>
<th>Signature</th>
<th>Number of Shares taken</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total shares taken

Dated the day of , 19

Witness to the above signatures—

Signature:
Description:
Address:
Articles of Association to accompany Preceding Memorandum of Association.

1. The Articles of Table A set out in the Second Schedule to the Companies Act, 1933, shall be the articles of association of the company and apply to the company.

<table>
<thead>
<tr>
<th>Name in Full</th>
<th>Address</th>
<th>Description</th>
<th>Signature</th>
</tr>
</thead>
</table>

Dated the day of , 19

Witness to the above signatures—

Signature:
Description:
Address:

---

TABLE E.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1. The name of the company is "The Patent Stereotype Company."
2. The objects for which the company is established are: The working of a patent method of founding and casting stereotype plates, of which method John Smith, of Wellington, is the sole patentee, and the doing of all such things as are incidental or conducive to the attainment of the above object.

We, the several persons whose names, addresses, and descriptions are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

<table>
<thead>
<tr>
<th>Name in Full</th>
<th>Address</th>
<th>Description</th>
<th>Signature</th>
<th>Number of Shares taken</th>
</tr>
</thead>
</table>

Total shares taken

Dated the day of , 19

Witness to the above signatures—

Signature:
Description:
Address:
Articles of Association to accompany the Preceding Memorandum of Association.

1. The share capital of the company is two thousand pounds divided into twenty shares of one hundred pounds each.
2. The company may by special resolution—
   (a) Increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;
   (b) Consolidate its shares into shares of a larger amount than its existing shares;
   (c) Subdivide its shares into shares of a smaller amount than its existing shares;
   (d) Cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;
   (e) Reduce its share capital in any way.
3. The Articles of Table A set out in the Second Schedule to the Companies Act, 1933 (other than Articles 30, 31, 32, 33, 34, 37, and 38), shall be deemed to be incorporated with these articles, and shall apply to the company.

<table>
<thead>
<tr>
<th>Name in Full.</th>
<th>Address.</th>
<th>Description.</th>
<th>Signature.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Dated the day of , 19

Witness to the above signatures—

Signature:

Description:

Address:

THIRD SCHEDULE.

PART I.

Matters required to be stated in Prospectus.

1. Except where the prospectus is published as a newspaper advertisement, the contents of the memorandum, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively.
2. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.
3. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.
4. The names, descriptions, and addresses of the directors or proposed directors.
5. Where shares are offered to the public for subscription particulars as to—

(i) The minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters:—

(a) The purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(b) Any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(c) The repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(d) Working capital; and

(ii) The amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

6. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

7. The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

8. The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a subpurchaser, the amount so payable to each vendor.

9. The amount, if any, paid or payable as purchase-money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount, if any, paid or payable for goodwill.

10. The amount, if any, paid within the two preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission.

11. The amount or estimated amount of preliminary expenses.

12. The amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment.
13. The dates of and parties to every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus, and a reasonable time and place at which any such material contract or a copy thereof may be inspected.

14. The names and addresses of the auditors, if any, of the company.

15. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

16. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

17. In the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

**PART II.**

**Reports to be set out in prospectus.**

1. A report by the auditors of the company with respect to the profits or losses of the company in respect of each of the three financial years immediately preceding the issue of the prospectus, and with respect to the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the said three years, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years, and, if no accounts have been made up in respect of any part of the period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact.

2. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by accountants who shall be named in the prospectus upon the profits or losses of the business in respect of each of the three financial years immediately preceding the issue of the prospectus.

**PART III.**

**Provisions applying to parts I and II of Schedule.**

1. The provisions of this Schedule with respect to the memorandum and the qualification, remuneration, and interest of directors, the names, descriptions, and addresses of directors or proposed directors, and the
amount or estimated amount of the preliminary expenses shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

2. Every person shall for the purposes of this Schedule be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

(a) The purchase-money is not fully paid at the date of the issue of the prospectus;

(b) The purchase-money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;

(c) The contract depends for its validity or fulfilment on the result of that issue.

3. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase-money" included the consideration for the lease, and the expression "sub-purchaser" included a sublessee.

4. For the purposes of paragraph 8 of Part I of this Schedule where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

5. If in the case of a company which has been carrying on business, or of a business which has been carried on, for less than three years, the accounts of the company or business have only been made up in respect of two years or one year, Part II of this Schedule shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years.

6. The expression "financial year" in Part II of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of the said Part of this Schedule be deemed to be a financial year.

FOURTH SCHEDULE.

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED.

The Companies Act, 1933.

Statement in lieu of Prospectus delivered for registration by

[Insert the name of the company.]

Pursuant to Section 51 of the Companies Act, 1933.

Delivered for registration by

The nominal share capital of the | £ company.
Divided into

<table>
<thead>
<tr>
<th>Shares of £</th>
<th>each :£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shares of £</td>
<td>each :£</td>
</tr>
<tr>
<td>Shares of £</td>
<td>each :£</td>
</tr>
<tr>
<td>Shares of £</td>
<td>each :£</td>
</tr>
</tbody>
</table>

Amount (if any) of above capital which consists of redeemable preference shares.

The date on or before which these shares are, or are liable, to be redeemed.

Names, descriptions, and addresses of directors or proposed directors.

If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.

The consideration for the intended issue of those shares and debentures.

Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company.

Amount (in cash, shares, or debentures) payable to each separate vendor.

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.

Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions for any shares or debentures in the company; or

Rate of the commission.

The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.

 Estimated amount of preliminary expenses.

Amount paid or intended to be paid to any promoter.

Consideration for the payment.

Dates of, and parties to, every material contract (other than contracts entered

<table>
<thead>
<tr>
<th>Total purchase price £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
</tr>
<tr>
<td>Shares</td>
</tr>
<tr>
<td>Debentures</td>
</tr>
</tbody>
</table>

| Goodwill | £ |

Amount paid :—£ Amount payable :—£ per cent.

Name of promoter :

Consideration :—
into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement, provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorized in writing.)

Date:

Note.—In this Schedule the expression "vendor" includes a vendor as defined in Part III of the Third Schedule to the Companies Act, 1933, and the expression "financial year" has the meaning assigned to it in that Part of the said Schedule.
FIFTH SCHEDULE.

FORM OF ANNUAL RETURN OF A COMPANY HAVING A SHARE CAPITAL.

ANNUAL Return of the Company, Limited, made up to the day of , 19 (being the fourteenth day after the date of the first or only ordinary general meeting in 19 ).

The address of the registered office of the company is as follows:—

Summary of Share Capital and Shares.

Nominal Share Capital £ divided ₤ shares of each.

Total number of shares taken up* to the day of , 19, being the date of the return (which number must agree with the total shown in the list as held by existing members).

Number of shares issued subject to payment wholly in cash.

Number of shares issued as fully paid up otherwise than in cash.

Number of shares issued as partly paid up to the extent of per share otherwise than in cash.

†Number of shares (if any) issued at a discount.

Total amount of discount on the issue of shares £ which has not been written off at the date of this return.

‡There has been called up on each of shares.

‡There has been called up on each of shares.

‡There has been called up on each of shares.

§Total amount of calls received, including payments £ on application and allotment.

Total amount (if any) agreed to be considered as £ paid on shares which have been issued as fully paid up otherwise than in cash.

* Where there are shares of different kinds or amounts (e.g. preference and ordinary or £1 and 1s.) state the number and nominal values separately.
† If the shares are of different kinds, state them separately.
‡ Where various amounts have been called, or there are shares of different kinds, state them separately.
§ Include what has been received on forfeited as well as on existing shares.
Total amount (if any) agreed to be considered as £
paid on shares which have been issued as partly paid up to the extent of per share otherwise than in cash.

Total amount of calls unpaid ... ... £

Total amount of the sums (if any) paid by way of £
commission in respect of any shares or debentures since the date of the* last return.

Total amount of the sums (if any) allowed by way £
of discount in respect of any debentures since the date of the* last return.

Total number of shares forfeited and not sold or £
otherwise disposed of ...

Total amount paid (if any) on shares forfeited .. £

Total amount of shares for which share warrants £
to bearer are outstanding.

Total amount of share warrants to bearer issued Issued £
and surrendered respectively since the date of Surrendered £
the †last return.

Number of shares comprised in each share warrant to bearer.

Total amount of the indebtedness of the company £
in respect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Act, 1933.

Copy of last Audited Balance-sheet of the Company.

Note.—Except where the company is a "private company" within the meaning of section 3 of the Companies Act, 1933, this return must include a written copy, certified by a director or by the manager or secretary of the company to be a true copy, of the last balance-sheet which has been audited by the company's auditors (including every document required by law to be annexed thereto), together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance-sheet is in a foreign language there must also be annexed to it a translation thereof in English certified in the prescribed manner to be a correct translation. If the said last balance-sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance-sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance-sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

* In the case of the first annual return strike out the words "last return" and substitute the words "incorporation of the company."

† In the case of the first annual return strike out the words "last return" or "last annual return" and substitute therefor the words "incorporation of the company."
Private Company.

Certificate to be given by a Private Company.

"I certify that the company has not since the date of the *last annual return issued any prospectus inviting subscriptions for shares in its capital."

(Signature)

(State whether director or secretary.)

The return must be signed at the end by a director or by the manager or secretary of the company.

Delivered for filing by

Particulars of the †Directors of the Company, Limited, at the date of the Annual Return.

<table>
<thead>
<tr>
<th>‡Name in Full.</th>
<th>Usual Residential Address.</th>
<th>§ Other Business Occupation if any. If None state so.</th>
</tr>
</thead>
</table>

* In the case of the first annual return strike out the words “last return” or “last annual return” and substitute therefor the words “incorporation of the company.”

† "Director" includes any person who occupies the position of a director by whatever name called and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.

‡ In the case of a corporation its corporate name and registered or principal office should be shown.

§ In the case of an individual who has no business occupation but holds any other directorship or directorships particulars of that directorship or of some one of those directorships must be entered.
List of Persons holding Shares in the Company, Limited, on the day of ____, 19__, and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, showing their Names, Addresses, and Descriptions, and an Account of the Shares so held.

N.B.—If the names in this list are not arranged in alphabetical order, an index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

<table>
<thead>
<tr>
<th>Folio in Register Ledger, containing Particulars.</th>
<th>Names, Addresses, and Descriptions.</th>
<th>Account of Shares.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>*Number of Shares transferred since the Date of the Last Return, or (in the Case of the First Return) of the Incorporation of the Company, by Persons who are still Members.</td>
</tr>
<tr>
<td></td>
<td>Surname.</td>
<td>Forename.</td>
</tr>
<tr>
<td>Remarks.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes these columns may be subdivided so that the number of each class held, or transferred, may be shown separately. Where any shares have been converted into stock the amount of stock held by each member must be shown.

‡ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

(Signature)  
(State whether Director or Manager or Secretary)
## SIXTH SCHEDULE.

**Provisions which do not apply in the case of a winding-up subject to supervision of the Court.**

<table>
<thead>
<tr>
<th>Number of Section</th>
<th>Subject-matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>183</td>
<td>Statement of company's affairs to be submitted to Official Assignee.</td>
</tr>
<tr>
<td>184</td>
<td>Report by Official Assignee.</td>
</tr>
<tr>
<td>185</td>
<td>Power of Court to appoint liquidators.</td>
</tr>
<tr>
<td>186</td>
<td>Appointment and powers of provisional liquidator.</td>
</tr>
<tr>
<td>187</td>
<td>Appointment, style, &amp;c., of liquidators.</td>
</tr>
<tr>
<td>188</td>
<td>Provisions where person other than Official Assignee is appointed liquidator.</td>
</tr>
<tr>
<td>189 except subs. (5)</td>
<td>General provisions as to liquidators</td>
</tr>
<tr>
<td>193</td>
<td>Exercise and control of liquidator's powers.</td>
</tr>
<tr>
<td>194</td>
<td>Books to be kept by liquidator.</td>
</tr>
<tr>
<td>195</td>
<td>Payments of liquidator into bank.</td>
</tr>
<tr>
<td>196</td>
<td>Audit of liquidator's accounts.</td>
</tr>
<tr>
<td>197</td>
<td>Control of Registrar over liquidators.</td>
</tr>
<tr>
<td>198</td>
<td>Release of liquidators.</td>
</tr>
<tr>
<td>199</td>
<td>Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.</td>
</tr>
<tr>
<td>200</td>
<td>Constitution and proceedings of committee of inspection.</td>
</tr>
<tr>
<td>201</td>
<td>Powers of Court where no committee of inspection.</td>
</tr>
<tr>
<td>209</td>
<td>Appointment of special manager.</td>
</tr>
<tr>
<td>215</td>
<td>Power to order public examination of promoters, directors, &amp;c.</td>
</tr>
<tr>
<td>216</td>
<td>Power to restrain fraudulent persons from managing companies.</td>
</tr>
<tr>
<td>219</td>
<td>Delegation to liquidator of certain powers of Court.</td>
</tr>
<tr>
<td>287</td>
<td>Power to appoint Official Assignee as receiver for debenture-holders or creditors.</td>
</tr>
</tbody>
</table>
SEVENTH SCHEDULE.

PROVISIONS WHICH DO NOT APPLY TO PRIVATE COMPANIES.

<table>
<thead>
<tr>
<th>Number of Section</th>
<th>Subject-matter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>47 . . .</td>
<td>Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus.</td>
</tr>
<tr>
<td>50 . . .</td>
<td>Prohibition of allotment unless minimum subscription received.</td>
</tr>
<tr>
<td>51 . . .</td>
<td>Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar.</td>
</tr>
<tr>
<td>52 . . .</td>
<td>Effect of irregular allotment.</td>
</tr>
<tr>
<td>53 (1) (a) . .</td>
<td>Return of allotments.</td>
</tr>
<tr>
<td>57 . . .</td>
<td>Power to issue redeemable preference shares.</td>
</tr>
<tr>
<td>61 . . .</td>
<td>Reserve liability of limited company.</td>
</tr>
<tr>
<td>104 . . .</td>
<td>Restrictions on commencement of business.</td>
</tr>
<tr>
<td>119 (3) . .</td>
<td>Annual return to include copy of balance-sheet.</td>
</tr>
<tr>
<td>121 . . .</td>
<td>Statutory meeting and statutory report.</td>
</tr>
<tr>
<td>138 . . .</td>
<td>Right to receive copies of balance-sheet and auditor's report.</td>
</tr>
<tr>
<td>140 (1) (b) . .</td>
<td>Disqualification of certain persons for appointment as auditors.</td>
</tr>
<tr>
<td>146 . . .</td>
<td>Number of directors.</td>
</tr>
<tr>
<td>147 . . .</td>
<td>Restrictions on appointment or advertisement of director.</td>
</tr>
</tbody>
</table>

EIGHTH SCHEDULE.

FORM OF MEMORANDUM OF SUBSCRIPTION FOR INCREASED CAPITAL OF A PRIVATE COMPANY.

MEMORANDUM of subscription for new capital of Company, Limited, amounting to pounds, divided into shares of pounds each.

We, the several persons whose names, addresses, and descriptions are subscribed, respectively agree to take the number of shares in the capital of the company set opposite our respective names.

<table>
<thead>
<tr>
<th>Name in Full.</th>
<th>Address.</th>
<th>Description.</th>
<th>Signature.</th>
<th>Number of Shares taken.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total shares taken (being all the new shares)

Dated the day of , 19 .

Witness to the above signatures—

Signature:
Description:
Address:
### NINTH SCHEDULE.

**Form of Statement in Lieu of Prospectus to be Delivered to Registrar by a Private Company on Becoming a Public Company.**

*The Companies Act, 1933.*

Statement in lieu of Prospectus delivered for registration by—

[Insert the name of the Company.]

Delivered to section 304 of the Companies Act, 1933.

<table>
<thead>
<tr>
<th>Section 304</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>19 &amp; 20 Geo. V.</td>
<td>Shares of £ each:— £</td>
</tr>
<tr>
<td>c. 23, 3rd Sched. (Imperial)</td>
<td>Shares of £ each:— £</td>
</tr>
<tr>
<td></td>
<td>Shares of £ each:— £</td>
</tr>
<tr>
<td></td>
<td>Shares of £ each:— £</td>
</tr>
<tr>
<td></td>
<td>Shares</td>
</tr>
</tbody>
</table>

Names, descriptions, and addresses of directors or proposed directors.

<table>
<thead>
<tr>
<th>Amount of shares issued</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of commissions paid in connection therewith.</td>
<td></td>
</tr>
<tr>
<td>Amount of discount, if any, allowed on the issue of any shares, or so much thereof as has not been written off at the date of the statement.</td>
<td></td>
</tr>
<tr>
<td>Unless more than one year has elapsed since the date on which the company was entitled to commence business:—</td>
<td></td>
</tr>
<tr>
<td>Amount of preliminary expenses</td>
<td>£</td>
</tr>
<tr>
<td>Amount paid to any promoter</td>
<td></td>
</tr>
<tr>
<td>Consideration for the payment</td>
<td></td>
</tr>
</tbody>
</table>

If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

| Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement. | £ |
| Consideration for the issue of those shares or debentures. | |
| Names and addresses of vendors of property (1) purchased or acquired by the company within the two years preceding the date of this statement or (2) agreed or proposed to be purchased or acquired by the company. | |

1. shares of £ fully paid.
2. shares upon which £ per share credited as paid.
3. debenture £ •
4. Consideration:—
Amount (in cash, shares, or debentures) paid or payable to each separate vendor.

Amount paid or payable in cash, shares, or debentures for any such property, specifying the amount paid or payable for goodwill.

Date of, and parties to, every material contract (other than contracts entered into in the ordinary course of business or entered into more than two years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the company.

Full particulars of the nature and extent of the interest of every director in any property purchased or acquired by the company within the two years preceding the date of this statement or proposed to be purchased or acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered or to be rendered to the company by him or by the firm.

Rates of the dividends (if any) paid by the company in respect of each class of shares in the company in each of the three financial years immediately preceding the date of this statement or since the incorporation of the company, whichever period is the shorter.

Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.

If any of the unissued shares or debentures are to be applied in the purchase of any business the amount, as certified by the persons by whom the accounts of the business have been
audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement, provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above-named as directors or proposed directors or of their agents authorized in writing.)

Date

Note.—In this form the expression “vendor” includes a vendor as defined in Part III of the Third Schedule to the Companies Act, 1933, and the expression “financial year” has the meaning assigned to it in that Part of the said Schedule.

TENTH SCHEDULE.

FORM OF STATEMENT TO BE PUBLISHED BY COMPANIES CARRYING ON INSURANCE BUSINESS (OTHER THAN LIFE INSURANCE).

* The share capital of the company is , divided into shares of each.

The number of shares issued is

Calls to the amount of pounds per share have been made, under which the sum of pounds has been received.

The liabilities of the company on the first day of January were—

Debts owing to sundry persons by the company—

On judgment, £

On specialty, £

On notes or bills, £

On simple contracts, £

On estimated liabilities, £

The assets of the company on that day were—

Government securities [stating them]

Bills of exchange and promissory notes, £

Cash at the bankers, £

Other securities, £

* If the company has no share capital the portion of the statement relating to capital and shares must be omitted.
## ELEVENTH SCHEDULE.

**Provisions referred to in Section 374 of the Act.**

<table>
<thead>
<tr>
<th>Number of Section</th>
<th>Subject-matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>Conclusiveness of certificate of incorporation.</td>
</tr>
<tr>
<td>46</td>
<td>Specific requirements as to particulars in prospectus.</td>
</tr>
<tr>
<td>51</td>
<td>Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar.</td>
</tr>
<tr>
<td>53</td>
<td>Return as to allotments.</td>
</tr>
<tr>
<td>89</td>
<td>Registration of charges created by companies.</td>
</tr>
<tr>
<td>91</td>
<td>Duty of company to register charges existing on property acquired.</td>
</tr>
<tr>
<td>100</td>
<td>Application of Part IV to companies incorporated outside New Zealand.</td>
</tr>
<tr>
<td>104</td>
<td>Restrictions on commencement of business.</td>
</tr>
<tr>
<td>117 (3) (m), (n)</td>
<td>The particulars as to directors and indebtedness of the company.</td>
</tr>
<tr>
<td>121</td>
<td>Statutory meeting and statutory report.</td>
</tr>
<tr>
<td>141 (1), (2)</td>
<td>Auditors' report and right to information and explanations.</td>
</tr>
<tr>
<td>147</td>
<td>Restrictions on appointment or advertisement of director.</td>
</tr>
<tr>
<td>246</td>
<td>Notice by liquidator of his appointment.</td>
</tr>
<tr>
<td>290</td>
<td>Delivery to Registrar of accounts of receivers and managers.</td>
</tr>
<tr>
<td>332</td>
<td>Documents, &amp;c., to be delivered to Registrar by companies carrying on business in New Zealand.</td>
</tr>
<tr>
<td>334</td>
<td>Return to be delivered to Registrar where documents, &amp;c., altered.</td>
</tr>
<tr>
<td>335</td>
<td>Books of account and balance-sheet of company carrying on business in New Zealand.</td>
</tr>
<tr>
<td>336</td>
<td>Obligation to state name of company, &amp;c.</td>
</tr>
</tbody>
</table>
Section 384

See Reprint of Statutes,

Vol. I, p. 827,

Vol. VIII, p. 915,

Vol. I, p. 983,

Vol. I, p. 984,

Vol. I, p. 985,

Vol. I, p. 986,

1908, No. 26.—The Companies Act, 1908.

1908, No. 200.—The Trustee Act, 1908: Section 111.

1910, No. 26.—The Companies Amendment Act, 1910.

1917, No. 9.—The Finance Act, 1917: Section 71.

1919, No. 31.—The Companies Amendment Act, 1919.

1920, No. 34.—The Companies Amendment Act, 1920.

1921–22, No. 35.—The Companies Amendment Act, 1921–22.

1922, No. 18.—The Companies Amendment Act, 1922.

1923, No. 18.—The Companies Amendment Act, 1923.

1924, No. 52.—The Companies Empowering Act, 1924.

1928, No. 25.—The Companies Amendment Act, 1928.

1931, No. 23.—The Companies Empowering Amendment Act, 1931.