CORPORATIONS

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Corporations Act 1972

TABLE OF AMENDMENTS

The Corporations Act 1972 No 5 was certified on 16 February 1972. Parts 1, 11 and 12 commenced on 16 February 1972 (s 2). Part 2 commenced on 21 February 1972 and remainder (except Part 6 Div 2) commenced on 8 March 1972 (GN No 40/1972; Gaz 6/1972).

Amending Legislation	Certified	Date of Commencement
Order Rectifying Clerical Errors in Written Law GN No 246/72	21 August 1972	21 August 1972
Corporation (Amendment) Act 1973 No 1	26 January 1973	26 January 1973
Insurance Act 1974 No 6	23 July 1974	s 37: 1 November 1974
Corporation (Amendment) Act 1975 No 14	20 November 1975	20 November 1975
Corporation (Amendment) Act 2003 No 1	27 March 2003	27 March 2003
Corporation (Amendment) Act 2004 No 10	6 September 2004	6 September 2004
Statute Law Revision Act 2011 No 8	15 April 2011	Sch 1 clause [44]: 15 April 2011
Corporations (Amendment) Act 2016 No 14	10 March 2016	10 March 2016
Corporations (Amendment) Act No 2 2016 No 21	12 May 2016	12 May 2016
Corporations (Amendment) Act No 3 2016 No 44	8 September 2016	8 September 2016
Corporations (Amendment) Act 2018 No 38	18 December 2018	15 January 2019
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

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An Act to provide for the incorporation and administration of corporations.

Be it enacted by the Parliament of Naoero as follows:
[cl am Act 21 of 2026 s 5, opn 12 May 2026]

PART 1 — PRELIMINARY

1 Short title and commencement

(1) This Act may be cited as the *Corporations Act 1972*.
[subs (1) subst Act 8 of 2011 s 12 and Sch 1 clause [44], opn 15 Apr 2011]

(2) This Part and Parts 11 and 12 shall come into force on the day upon which this Act becomes law.

(3) The other provisions of this Act shall come into force on a date or dates to be notified by the Minister in the Gazette.

2 Interpretation

In this Act:

'annual return' means the annual return required to be made by a corporation under the provisions of Section 133;

'articles' means articles of incorporation;

'audit period' means the period in respect of which any profit and loss account of the corporation is made up and, when used in relation to the appointment of an auditor, means a period expiring on the 30th day of June next after the expiry of the preceding audit period or, if there be no preceding audit period, a period expiring on the 30th day of June next after the appointment of the auditor;

'beneficial owner' means a natural person:
(a) who has ultimate control, directly or indirectly, of the corporation;
(b) who ultimately owns, directly or indirectly, the corporation; or
(c) on whose behalf a corporation is incorporated;

[Note: 'beneficial owner' definition is fully covered in *Beneficial Ownership Act 2017*]
[def insrt Act 38 of 2018 s 4, opn 15 Jan 2019]

'board' means the board of directors of a corporation or a foreign corporation;

'books' includes accounts, deeds, writings, invoices and documents;

'borrowing corporation' means a corporation that is or will be under a liability, whether or not such liability is present or future, to repay any money received or to be received by it in response to an invitation to the public to subscribe for or purchase debentures of the corporation;

'branch register' means a branch register of members of a corporation kept in pursuance of Section 132;

'capital surplus' means the entire surplus of a corporation other than its earned surplus;

'certified' means certified to be a particular document or to be a true copy thereof;

'charge' includes a mortgage and any agreement to give or execute a charge or mortgage whether upon demand or otherwise;

'contributory', in relation to a corporation, means a person liable to contribute to the assets of the corporation in the event of its being wound-up, and includes the holder of fully paid shares in the corporation and, prior to the final determination of the persons who are contributories, includes a person alleged to be a contributory;

'creditor' means a person whose debt or claim is admissible against the corporation under Section 175 and, in respect of the proof of debts or claims, includes a person seeking to prove that his or her claim is so admissible;

'debenture' includes debenture stock, bonds, notes and any other securities of a corporation whether constituting a charge on the assets of the corporation or not;

'director' means a person occupying the position of director of a corporation by whatever name called;

'document' includes summons, order and other legal process, and notice and register;

'earned surplus' means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation or from the latest date when a deficit was eliminated, after deducting subsequent distributions to shareholders and transfers made out of earned surplus account and shall include also any portion of surplus allocated to earned surplus account in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or property or assets of another corporation, whether incorporated in the Republic or not;

'expert' includes engineer, valuer, accountant and any other person whose profession or reputation gives authority to a statement made by him or her;

'foreign corporation' means:

(a) a corporation, company, society, association or other body incorporated outside the Republic; or

(b) an unincorporated society, association or other body which under the law of its place of origin may sue or be sued or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose and which does not have its head office or principal place of business in the Republic;

'guarantor corporation', in relation to a borrowing corporation, means a corporation that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the borrowing corporation in response to an invitation to the public to subscribe for or purchase debentures of the borrowing corporation;

'insolvent' means unable to pay debts as they become due;

'issued capital' means, at any particular time, the sum of the par value of all shares of the corporation that have been issued;

'Minister' means the Minister responsible for the administration of this Act;

'Naoero corporation' means a corporation which does not issue any debenture to which the provisions of Section 66(12) relate and of which all shares issued

are held beneficially by one or more Naoero citizens and by no other person or persons and are not subject to any options to purchase them;

[def subst Act 21 of 2016 s 4, opn 12 May 2016; am Act 21 of 2026 s 5, opn 12 May 2026]

'nominee corporation'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'officer', in relation to a corporation, includes:

(a) any director, secretary or employee of the corporation;
(b) a receiver and manager of any part of the undertaking of the corporation appointed under the power contained in any instrument; and
(c) any liquidator of a corporation appointed in a voluntary winding-up,

but does not include a liquidator appointed in a compulsory winding-up;

'official liquidator' means a person appointed to be such under the provisions of Section 10;

'person' includes a corporation and a foreign corporation whether incorporated under this Act or otherwise;

'printing' includes typewriting and any duplication thereof not less legible and permanent than the original;

'profit and loss account' includes income and expenditure account, revenue account or any other account showing the results of the business of a corporation for a period;

'promoter', in relation to a prospectus issued by or in connection with a corporation, means a promoter of the corporation who was a party to the preparation of the prospectus or of any relevant portion thereof, but does not include a person by reason only of his or her acting in a professional or advisory capacity;

'public' includes those persons or classes of persons in Naoero or elsewhere who are for the relevant purposes regarded in Naoero by the written laws of the Republic or elsewhere by the law of the place where they are as being '**public**' or '**the public**';

[def am Act 21 of 2026 s 5, opn 12 May 2026]

'registered corporation agent'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'registered corporation auditor'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'registered corporation broker'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'registered director' means a person appointed to be such under the provisions of Section 103(12);

'registered secretary'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'registered trustee corporation'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'resident secretary'

[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'secretary' means a secretary appointed under Section 110;
[def insrt Act 38 of 2018 s 4, opn 15 Jan 2019]

'surplus' means the excess of the assets of a corporation over its issued capital;

'the Authority'
[def rep Act 38 of 2018 s 4, opn 15 Jan 2019]

'the court' means the District Court;

'the Registrar' means the Registrar of Corporations appointed under Section 6; and

'trustee corporation' means a corporation which as a whole or a part of its business undertakes or offers to undertake all or any of the duties of a trustee.
[def subst Act 38 of 2018 s 4, opn 15 Jan 2019]

3 Transitional provisions

(1) Where any company has been incorporated prior to the commencement of this Part and has not been dissolved, it shall continue in existence for not more than 1 year after such commencement and where any foreign company has been registered prior to the commencement of this Part and has not ceased to be so registered since the last occasion on which it was registered, the registration shall continue to have effect for not more than 1 year after such commencement:

Provided that where any winding-up of such a company or foreign company has been commenced while it is continuing in existence and subject to the written law under which it was incorporated or registered, such winding-up shall be completed under that written law.

(2) For such time as a company continues in existence, or the registration of a foreign company continues to have effect, under the provisions of this Section, the company or the foreign company, shall be subject to the written law under which it was incorporated or registered, as the case may be.

(3) A company which continues in existence, and a foreign company of which the registration continues to have effect, under the provisions of this Section may apply within 1 year after the commencement of this Part to be registered as a corporation or foreign corporation under this Act and, subject to the provisions of Section 247, shall, upon payment of the prescribed fees, be so registered and shall thereafter be deemed for all purposes to have been incorporated or registered hereunder.

[subs (3) am GN No 247/1972 item (a), opn 21 Aug 1972]

(4) Where any company continued in existence by this Section has not been registered under the provisions of subsection (3) within 1 year of the commencement of this Part, it shall be deemed to have ceased to carry on business or be in operation and the provisions of Division 8 of Part 9 shall apply as though it were a corporation incorporated under this Act.

(5) Where any foreign company the registration of which has continued to have effect under the provisions of this Section has not been registered under the provisions of subsection (3) within 1 year of the commencement of this Part, the Registrar shall send to such foreign company a notice requiring it so to register within 60 days and, if it fails so to register within that period, it shall be deemed to have given notice that it has ceased to

have a place of business in the Republic and has ceased to carry on business in the Republic and it shall further be deemed to be no longer registered in the Republic.

[subs (5) am GN No 247/1972 item (b), opn 21 Aug 1972]

(6) Every reference in any written law to a company or a foreign company shall be deemed to be a reference to a corporation incorporated or registered, or a foreign corporation registered, under the provisions of this Act, as the case may be.

(7) No corporation which may be incorporated as a corporation under this Act shall from the commencement of this Act be incorporated as a company under the provisions of any earlier written law unless such written law relates only to such corporation.

3A Application of the Banking Act 1975

For the purposes of clarity and to avoid confusion, it is hereby declared that, the *Banking Act 1975* does not have any application to the operations of a banking licence granted under Section 5 of this Act to carry on banking business outside the Republic.

[s 3A insrt Act 1 of 2003 s 3, opn 27 Mar 2003]

4 Related corporations

(1) For the purposes of this Act and the Regulations, a corporation shall, subject to the provisions of subsection (3), be deemed to be a subsidiary of another corporation, if:

(a) that other corporation:

(i) controls the composition of the board of directors of the first-mentioned corporation;

(ii) controls more than half of the voting power of the first-mentioned corporation; or

(iii) holds more than half of the issued share capital of the first-mentioned corporation, excluding any part thereof which carries no right to participate beyond a specified amount in a distribution of either profits or capital; or

(b) the first-mentioned corporation is a subsidiary of any corporation which is that other corporation's subsidiary.

(2) For the purposes of subsection (1), the composition of a corporation's board of directors shall be deemed to be controlled by another corporation if that other corporation by the exercise of some power exercisable by it, without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors and, for the purposes of this provision, that other corporation shall be deemed to have power to make such an appointment if:

(a) a person cannot be appointed as a director without the exercise in his or her favour by that other corporation of such a power; or

(b) a person's appointment as a director follows necessarily from his or her being a director or other officer of that other corporation.

(3) In determining whether one corporation is a subsidiary of another corporation:

(a) any shares held or power exercisable by that other corporation in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to paragraphs (c) and (d), any shares held or power exercisable:

(i) by a person as a nominee for that other corporation, except where that other corporation is concerned only in a fiduciary capacity; or

(ii) by, or by a nominee for, a subsidiary of that other corporation, not being a subsidiary which is concerned only in a fiduciary capacity,

shall be treated as held or exercisable by that other corporation;

(c) any shares held or power exercisable by a person by virtue of the provisions of any debentures of the first-mentioned corporation or of a trust deed for securing any issue of such debentures shall be disregarded; and

(d) any shares held or power exercisable by or by a nominee for, that other corporation or its subsidiary, not being held or exercisable as mentioned in paragraph (c), shall be treated as not held or exercisable by that other corporation if the ordinary business of that other corporation or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

[subs (3) am GN No 247/1972 item (c), opn 21 Aug 1972]

(4) A reference in this Act or the Regulations to the parent corporation of a corporation shall be read as a reference to a corporation of which the last-mentioned corporation is a subsidiary.

(5) Where a corporation is:

(a) the parent corporation of another corporation;

(b) a subsidiary of another corporation; or

(c) a subsidiary of the parent corporation of another corporation,

that first-mentioned corporation and that other corporation shall for the purposes of this Act and the Regulations be deemed to be related to each other and to be related to every other corporation so related to either of them or related directly, or by a series of such relationships, to any other such related corporation.

5 Purposes and licences

(1) Corporations may be incorporated for any lawful purpose or purposes except for the purpose of carrying on the businesses of banking and acting as a trustee corporation, or any of such businesses, otherwise than under, and in accordance with the conditions of, a licence issued to that corporation by the Minister under this Section.

[subs (1) am Act 6 of 1974 s 37, opn 1 Nov 1974; Act 38 of 2018 s 5, opn 15 Jan 2019]

(2) Subject to the provisions of subsection (4), a corporation incorporated under this Act, unless restricted by its articles, may carry on any business which may lawfully be carried on by an individual but shall not carry on the businesses of banking, trustee corporation, or any of such businesses, except under, and in accordance with the conditions of, a licence issued to that corporation by the Minister under this Section.

[subs (2) am Act 6 of 1974 s 37, opn 1 Nov 1974; Act 38 of 2018 s 5, opn 15 Jan 2019]

(3) A corporation incorporated under this Act may be either a trading corporation or a holding corporation.

(4) The Minister may by notice in the Gazette restrict any corporation or class of corporations from carrying on any specified business in the Republic and may by notice in the Gazette impose conditions subject to which any specified business may be carried on by any corporation or class of corporations.

(5) The Minister may grant licences, if he or she thinks fit, to corporations and foreign corporations authorising them to carry on the business of trustee corporation, and in any licence may impose conditions subject to which the business or businesses to which it relates may be carried on.

[subs (5) am Act 6 of 1974 s 37, opn 1 Nov 1974; Act 1 of 2003 s 3, opn 27 Mar 2003; Act 38 of 2018 s 5, opn 15 Jan 2019]

(6) A licence granted under subsection (5), shall be valid for such period as the Minister determines at the time of granting it but may be rescinded by the Minister at any time if any of its conditions are breached by the licencee.

(7) A licence granted under subsection (5) may be expressed to be an exclusive licence; where any such licence is granted, no other licence shall be granted in respect of the business or businesses to which the first-mentioned licence relates while that first-mentioned licence continues in force, unless the licencee of that first-mentioned licence consents to such other licence being granted.

(8) At the time of granting a licence under subsection (5) the Minister may, if he or she thinks fit, impose a fee to be paid by the licencee for such licence and such fee may be a specified amount or an amount to be determined in relation to the gross income, gross profits or net profits of the licencee or otherwise and shall be payable on such date or dates as the Minister sets at the time of granting the licence.

(9) The Minister:

(a) in granting or refusing to grant a licence under the provisions of this Section;

(b) in imposing under this Section any condition subject to which a specified business may be carried on by a corporation or a class of corporations; and

(c) in restricting a corporation or a class of corporations from carrying on any specified business in the Republic,

shall not be required to act judicially and the grant, refusal, imposition of a condition or restriction shall not be subject to challenge in any court.

[subs (9) insrt Act 14 of 1975 s 3, opn 20 Nov 1975]

5A Continuation and validity of existing licences

(1) The power of the Minister to grant, renew or repeal licences to corporations and foreign corporations to carry on business of banking pursuant to Section 5 shall cease to exist.

(2) Any existing licences granted to corporations and foreign corporations to carry on the business of banking pursuant to Section 5 shall expire and be void at the end of 30 days after the commencement of this Act.

(3) All licences voided under subsection (2) shall not be renewed.

[s 5A subst Act 10 of 2004 s 3, opn 6 Sep 2004]

5B Cessation of banking licences

Where a licence to carry on banking expires pursuant to Section 5A, before the renewed period of the licence expires, the Republic shall ensure that, upon application by the corporation granted the licence, a refund of the proportionate amount of any licence fee paid in respect of the licence for the period after the licence expires pursuant to this Act, shall be made within 12 months after the receipt of such application.

[s 5B insrt Act 1 of 2003 s 3, opn 27 Mar 2003; am Act 10 of 2004 s 3, opn 6 Sep 2004]

[The next page is 30,801]

6 Registrar of Corporations

(1) The President shall appoint a Registrar of Corporations to have the charge and control of the Corporations Office and to carry out the duties and functions vested in him or her by or under this or any other Act.

(2) The President may appoint such Deputy Registrars of Corporations and other officers as are required for the purposes of this Act.

(3) Anything by this Act appointed or authorised or required to be done or signed by the Registrar may be done or signed by any such Deputy Registrar and shall be as valid and effectual as if done or signed by the Registrar.

(4) All courts, Judges, and persons acting judicially shall take judicial notice of the seal and also the signature of the Registrar and of any Deputy Registrar.

(5) For the purpose of ascertaining whether a corporation is complying with the provisions of this Act the Registrar or a person authorised by him or her may inspect any book, minute book, register or record required by or under this Act to be kept by the corporation.

(6) A person who, except for the purposes of this Act, or except in the course of any criminal proceedings, makes a record of, divulges or communicates to any other person any information which he or she has acquired by reason of such inspection shall be guilty of an offence against this Act.

(7) A corporation or any officer thereof shall, on being required by the Registrar or a person authorised by the Registrar, produce any such book, register or record.

(8) A corporation or any officer thereof shall not obstruct or hinder the Registrar or person so authorised while exercising any of the powers referred to in subsection (5).

(9) There shall be paid to the Registrar such fees as are prescribed.

7 Naoero Government Commercial Authority

[s 7 rep Act 38 of 2018 s 6, opn 15 Jan 2019; am Act 21 of 2026 s 5, opn 12 May 2026]

8 Registered corporation agents

[s 8 rep Act 38 of 2018 s 6, opn 15 Jan 2019]

9 Registered corporation auditors

[s 9 rep Act 38 of 2018 s 6, opn 15 Jan 2019]

10 Official liquidators

(1) For the purpose of proceedings in winding-up corporations the Minister may, by notice in the Gazette, appoint a person or corporation to be an official liquidator.

(2) The Minister may revoke any appointment made under subsection (1).

(3) No person or corporation shall be appointed or act as liquidator of a corporation:

(a) if he or she or it is not an official liquidator;
(b) if he or she, it or any corporation related to it is indebted to the corporation or to a corporation which is deemed to be related to that corporation by virtue of Section 4(5) in an amount exceeding $1,000; or
(c) if he or she or it has not prior to the appointment consented to be appointed.

(4) The Registrar shall keep a register of official liquidators.

(5) Where an official liquidator is appointed to be a liquidator of a corporation, whether by the court or in a voluntary winding-up, he or she or it shall forthwith notify the Registrar in writing of any interest which he or she, it or any corporation related to it has in the corporation as an officer or employee of the corporation or as a partner, employee or employer of an officer of the corporation or as a partner or employee of an employee of the corporation.

(6) Nothing in this Section shall affect any appointment of a liquidator made before the commencement of this Act.

11 Corporation brokers

[s 11 rep Act 38 of 2018 s 6, opn 15 Jan 2019]

12 Registers

(1) The Registrar may, subject to this Act and the Regulations, keep such other registers as he or she considers necessary and in such form as he or she thinks fit.

(2) A person may, on payment of the prescribed fee:
(a) inspect any document filed or lodged with the Registrar relating to a corporation; or
(b) require any certificate issued under this Act or a copy of or extract from any document kept by the Registrar in relation to a corporation to be given or certified by the Registrar.

[subs (2) am Act 1 of 2003 s 3, opn 27 Mar 2003]

(3) [subs (3) rep Act 1 of 2003 s 3, opn 27 Mar 2003]

(4) A copy of or extract from any document filed by the Registrar certified to be a true copy or extract under the hand and seal of the Registrar shall in any proceedings be as admissible in evidence as if it were the original document or the part thereof so extracted.

(5) In any legal proceedings, a certificate under the hand and seal of the Registrar that a requirement of this Act specified in the certificate:
(a) had or had not been complied with at a date or within a period specified in the certificate; or
(b) had been complied with upon a date specified in the certificate but not before that date,

shall be received as *prima facie* evidence of the matter specified in that certificate.

(6) Where the Registrar is of the opinion that any document lodged with him or her:
(a) contains matter contrary to law;

(b) by reason of any omission or misdescription has not been duly completed;
(c) does not comply with the requirements of this Act; or
(d) contains any error, alteration or erasure,

he or she may refuse to file the document and request that the document be appropriately amended or completed and relodged or a fresh document be lodged in its place.

[subs (6) subst Act 38 of 2018 s 7, opn 15 Jan 2019]

(7) Where a corporation or person, having been in default in complying with:
(a) any provision of this Act or of any other written law which requires the lodging in any manner with the Registrar of any return, account or other document or the giving of notice to him or her on any matter; or
(b) any request of the Registrar to amend or complete and re-lodge any document or lodge a fresh document,

fails to make good the default within 60 days after the service on the corporation or person of a notice requiring it to be done, the Minister may, on an application by any member or creditor of the corporation or by the Registrar, make an order directing the corporation and any officer thereof or such person to make good the default within such time as is specified in the order.

(8) Nothing in this Section shall prejudice the operation of any other Section of this Act or any other written law imposing penalties on a corporation or its officers or such person in respect of any such default as aforesaid.

13 Re-lodging of lost documents

(1) Where, in the case of any corporation, the memorandum or articles or any other document relating to the corporation lodged with or filed by the Registrar has been lost or destroyed, the corporation may lodge an application with the Registrar for leave to lodge a copy of the document as originally lodged or filed, as the case may be.

(2) On such application being made the Registrar may direct notice thereof to be given to such persons and in such manner as he or she thinks fit.

(3) The Registrar upon being satisfied:
(a) that the original document has been lost or destroyed;
(b) of the date of the lodging thereof with, or the filing thereof by, the Registrar;
(c) that a copy of such document produced to the Registrar is a correct copy; and
(d) that the proper fee payable on lodging the original document has been paid,

may certify upon such copy that he or she is so satisfied and direct that such copy be lodged in the manner required by law in respect of the original.

(4) Upon the lodgement, the copy for all purposes shall from such date as is mentioned in the certificate as the date of the lodging or filing, as the case may be, of the original with the Registrar have the same force and effect as the original.

(5) The court may, by order upon application by a person aggrieved and after notice to any other person whom the court directs, confirm, vary or rescind the certificate and the order may be lodged with the Registrar and shall be

registered by him or her, but no payments, contracts, dealings, acts and things made, had or done in good faith before the registration of such order and upon the faith of and in reliance upon the certificate shall be invalidated or affected by such variation or rescission.

(6) No fee shall be payable to the Registrar upon the lodging of a document lodged in pursuance of subsection (3).

[The next page is 31,001]

14 Formation of corporations

(1) Subject to this Act, any one or more persons or corporations may by subscribing its, his or her or their name or names to a memorandum and complying with the requirements as to registration form a holding corporation for any lawful purpose.

[subs (1) subst Act 38 of 2018 s 8, opn 15 Jan 2019]

(2) Subject to this Act, any 2 or more persons or corporations may by subscribing their names to a memorandum and complying with the requirements as to registration form a trading corporation for any lawful purpose.

(3) Where a subscriber to a memorandum is a corporation, the memorandum may be subscribed by that corporation under its seal or by some person duly authorised on its behalf.

[subs (3) am Act 38 of 2018 s 8, opn 15 Jan 2019]

(4) Every corporation incorporated under this Act shall be a corporation limited by shares.

15 Registration and incorporation

(1) Subject to the provisions of this Section, a person desiring the incorporation of a corporation shall cause to be lodged with the Registrar the memorandum and articles, if any, of the proposed corporation together with an unsigned true copy thereof and the other documents required to be lodged by or under this Act, and the Registrar upon payment of the prescribed fees shall, subject to this Act, register the corporation by filing the memorandum and articles, if any.

[subs (1) am Act 21 of 2016 s 5, opn 12 May 2016; Act 38 of 2018 s 9, opn 15 Jan 2019]

(2) [subs (2) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(3) On the filing of the memorandum, the Registrar shall certify under his or her hand and seal that the corporation is, on and from the date specified in the certificate, incorporated and that the corporation is:

(a) a trading corporation; or

(b) a holding corporation,

as the case may be.

[subs (3) am Act 38 of 2018 s 9, opn 15 Jan 2019]

(4) The first certificate of incorporation shall be valid for 12 months from the date of incorporation and shall be renewable thereafter for further periods of 12 months from each anniversary of the date of incorporation upon due lodgement of the annual return of the corporation and payment of the prescribed fee and such renewal certificate shall be issued by the Registrar within 14 days after the due lodgement of the annual return and payment of such fee.

[subs (4) am Act 38 of 2018 s 9, opn 15 Jan 2019]

(4A) A person who intends to incorporate a corporation or renew the certificate of incorporation, shall comply with the provisions of the *Business Licences Act 2017*, *Beneficial Ownership Act 2017* and *Business Names Registration Act 2018* where the corporation intends to trade under a business name.

[subs (4A) insrt Act 38 of 2018 s 9, opn 15 Jan 2019]

(5) Every certificate of incorporation shall show on its face the date of its expiry, and, if articles are filed, a notation to that effect.

(6) Any director or officer of a corporation who permits a corporation to carry on business after the expiry of its certificate of incorporation and before a current certificate of incorporation has been issued shall, unless the Minister otherwise directs, be personally liable for the debts and liabilities of the corporation incurred during such period as the corporation carries on business without a current certificate of incorporation.

(7) On and from the date of incorporation specified in the certificate of incorporation but subject to this Act, the subscriber or subscribers to the memorandum, while they remain members together with such other persons as may from time to time become members of the corporation, shall be a body corporate by the name contained in the memorandum capable forthwith of exercising all the functions of a corporation and of suing and being sued and having perpetual succession and a corporate seal but with such liability on the part of the members to contribute to the assets of the corporation in the event of its being wound-up as is provided by this Act.

(8) A certificate of incorporation under the hand and seal of the Registrar shall be conclusive evidence that all the requirements of this Act in respect of incorporation and of matters precedent and incidental thereto have been complied with and that the corporation referred to therein was duly incorporated under this Act.

(9) Every subscriber to the memorandum shall upon its incorporation be a member of the corporation and on the incorporation of the corporation:

(i) if the articles so permit and the subscriber so desires and has paid in full the nominal value of his or her shares, he or she shall be issued with a share warrant or warrants for the shares agreed to be taken by him or her in the memorandum and the appropriate entry shall be made in its register of members; and

(ii) in any other case, without formal allotment of shares, he or she shall be entered as a member in its register of members in respect of the shares or shares subscribed for by him or her in the memorandum and also be issued with a share warrant for the charge in the share.

[subs (9) am Act 38 of 2018 s 9, opn 15 Jan 2019]

(10) [subs (10) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(11) [subs (11) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(12) [subs (12) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(13) [subs (13) rep Act 21 of 2016 s 5, opn 12 May 2016]

(14) [subs (14) rep Act 21 of 2016 s 5, opn 12 May 2016]

(15) [subs (15) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(16) [subs (16) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(17) [subs (17) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(18) [subs (18) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(19) [subs (19) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(20) [subs (20) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(21) [subs (21) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(22) [subs (22) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(23) [subs (23) rep Act 38 of 2018 s 9, opn 15 Jan 2019]

(24) After incorporation a person who agrees to become a member of a corporation and whose name is entered into its Register of Members or who becomes the holder of a share warrant shall be a member of the corporation.

(25) Regulations may be made prescribing the form of documents to be used pursuant to the provisions of this Section.

15A Continuation in Naoero of Corporation incorporated outside Naoero

(1) Subject to subsection (6) of this Section and to Section 247, a corporation incorporated as a company or corporation under the laws of any country other than Naoero, or of any jurisdiction within such a country, may, if it appears to the Registrar to be authorised by the laws of that country or jurisdiction, apply to the Registrar to be registered as being continued in Naoero as a foreign corporation as if it has been incorporated under this Act.

[subs (1) am Act 38 of 2018 s 10, opn 15 Jan 2019; Act 21 of 2026 s 5, opn 12 May 2026]

(2) Upon application under subsection (1), supported by such material as he or she considers adequate and satisfactory, the Registrar may, if he or she is satisfied that the consent of such number or proportion of the shareholders, debenture holders and creditors of the corporation as may be required by the laws of that country or jurisdiction, to such registration has been obtained by the corporation, register such corporation as being so continued in Naoero:

Provided that no corporation may be registered under this Section if:

(a) its winding-up has commenced;

(b) a receiver of its property has been appointed;

(c) there is any scheme or order in force in relation thereto whereby the rights of creditors are suspended or restricted; and

(d) it has not complied with the provisions of the *Business Names Registration Act 2018*, *Business Licences Act 2017* and *Beneficial Ownership Act 2017*.

[subs (2) subst Act 38 of 2018 s 10, opn 15 Jan 2019; am Act 21 of 2026 s 5, opn 12 May 2026]

(3) A corporation applying under subsection (1) to be registered in Naoero shall state in its application whether it is seeking to be registered as a trading corporation or a holding corporation. The Registrar shall not register any corporation under this Section unless he or she is satisfied that it would be eligible to be incorporated in Naoero as a corporation of the class in which it seeks to be registered and, if he or she registers it, he or she shall register it either as a trading corporation or as a holding corporation.

[subs (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) The registration of a corporation under this Section shall not operate:
  (a) to create a new legal entity;
  (b) to prejudice or affect the continuity of the corporation;
  (c) to affect the property of the corporation;
  (d) to render defective any legal or other proceedings instituted, or to be instituted, by or against the corporation or any other person; or
  (e) to affect any rights, powers, authorities, duties, functions, liabilities or obligation of the corporation or any other person.

(5) Upon the registration of a corporation under this Section:
  (a) so much of its constitution as would, if it had been incorporated under this Act, have been required by this Act to be included in its memorandum of association shall be deemed to be the registered memorandum of association of the corporation; and
  (b) so much of its constitution as does not, by virtue of paragraph (a), comprise its memorandum of association shall be deemed to be the registered articles of association of the corporation,

and shall be binding on the corporation and its members accordingly.

(6) No corporation incorporated by private Act or which could not be incorporated under this Act shall be registered under subsection (5).

(7) A corporation registered under subsection (1) shall pay the same fee for registration as if it were being registered upon incorporation in Naoero and the provisions of regulations relating to the changing of names by companies incorporated under the *Companies Ordinance 1912* of the Territory of Papua in its application to Naoero and registered under Section 3 of this Act shall apply *mutatis mutandis* thereto.

[subs (7) am Act 21 of 2026 s 5, opn 12 May 2026]

[s 15A insrt Act 1 of 1973 s 5, opn 26 Jan 1973; am Act 21 of 2026 s 5, opn 12 May 2026]

16 Requirements as to memorandum

(1) The memorandum of every corporation shall be printed and divided into numbered paragraphs and dated and shall state:
  (a) the name of the corporation;
  (b) that the corporation is a trading corporation or a holding corporation, as the case may be;
  (c) the amount of share capital with which the corporation proposes to be registered and the division thereof into shares of a fixed amount;
  (d) in the case of a trading corporation the full names and addresses of the subscribers thereto; and
  (e) that the subscriber or subscribers to the memorandum desire the formation of a corporation and that on incorporation shares of the number and class in the capital of the corporation set out are to be issued to the subscriber or the respective subscribers.

[subs (1) am Act 14 of 1975 s 5, opn 20 Nov 1975]

(2) Members shall be liable to the corporation for the amount unpaid on their shares but their liability as members is, subject to the provisions of this Act, limited to the amount, if any, unpaid on the shares held by them.

DIVISION 2 — STATUS AND NAME

17 Powers of corporations

The powers of a corporation shall include, unless expressly excluded or modified by the articles, the powers set forth in Schedule 1, which shall be

exercisable in Naoero and elsewhere, and such other powers, if any, as are set out in its articles or granted to it generally or specially by regulations made under this Act.

[s 17 am Act 21 of 2026 s 5, opn 12 May 2026]

18 Ultra vires transactions

(1) No act of a corporation, including the entering into of an agreement by the corporation, and no conveyance or transfer of property whether real or personal to or by a corporation shall be invalid by reason only of the fact that the corporation was without capacity or power to do such act or to execute or take such conveyance or transfer.

(2) Any such lack of capacity or power may be asserted or relied upon only in:
(a) proceedings against the corporation by any member of the corporation or, where the corporation has issued debentures secured by a floating charge over all or any of the corporation's property, by the holder of any of those debentures, or the trustees for the holders of those debentures, to restrain the doing of any act or acts or the conveyance or transfer of any property to or by the corporation; or
(b) any proceedings by the corporation or by any member of the corporation against the present or former officers of the corporation.

(3) Where the unauthorised act, conveyance or transfer sought to be restrained in any proceedings under subsection (2)(a) is being or is to be performed or made pursuant to any contract to which the corporation is a party, the court may, if all the parties to the contract are parties to the proceedings and if the court deems it to be just and equitable, set aside and restrain the performance of the contract and may allow to the corporation or to the other parties to the contract, as the case requires, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and restraining the performance of the contract but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

19 Names of corporations

(1) Except with the consent of the Minister, a corporation shall not be registered by a name that, in the opinion of the Registrar, is undesirable or is a name, or includes a name, of a kind that the Minister directs the Registrar not to accept for registration.

(2) A corporation shall have the word "Corporation" or the word "Incorporated" or the abbreviation "Corp." or "Inc." as part of, and at the end of, its name.

(3) A holding corporation shall have the word "Holding" or "Holdings" immediately prior to the word "Corporation", the word "Incorporated" or the abbreviation "Corp" or "Inc" where it last appears in its name as part of its name and a trading corporation shall not have the word "Holding" or "Holdings" or any word which might be an abbreviation thereof appearing in its name.

(4) No description of a corporation shall be deemed inadequate or incorrect by reason of the use of:

(a) the abbreviations "Corp" or "Inc" in lieu of the word "Corporation" or "Incorporated" contained in the name of the corporation;
(b) the word "Corporation" or "Incorporated" in lieu of the abbreviations "Corp" or "Inc" contained in the name of the corporation; or
(c) the symbol "&" in lieu of the word "and" contained in the name of the corporation or the word "and" in lieu of the symbol "&" in the name of the corporation.

(5) A person may lodge with the Registrar an application in the prescribed form for the reservation of a name set out in the application as:
(a) the name of any intended corporation; or
(b) the name to which a corporation proposes to change its name.

(6) Where the Registrar considers that the application is made *bona fide* and is satisfied that the proposed name is a name by which the intended corporation or the corporation could be registered without contravention of subsection (1), he or she shall, upon payment of the prescribed fee, reserve the proposed name for a period of 6 months from the date of the lodging of the application.

[subs (6) am Act 14 of 1975 s 6, opn 20 Nov 1975]

(7) Where, at any time, during the period for which a name is reserved, an application is lodged with the Registrar for an extension of that period and the Registrar is satisfied as to the *bona fides* of the application, he or she may upon payment of the prescribed fee extend that period for a further period of 6 months.

(8) During a period for which a name is reserved, no corporation, person, firm or society, other than the corporation or intended corporation in respect of which the name is reserved, shall be registered under this Act or any other Act, whether originally or on change of name, under the reserved name or under any other name that, in the opinion of the Registrar, so closely resembles the reserved name as to be likely to be mistaken for that name.

(9) The reservation of a name under this Section in respect of an intended corporation or corporations shall not in itself entitle the intended corporation or corporations to be registered by that name, either originally or on change of name.

20 Change of name

(1) A corporation may by special resolution and with the approval of the Registrar change its name to a name by which the corporation could be registered without contravention of Section 19(1).

(2) Where the name of a corporation, whether through inadvertence or otherwise and whether originally or by change of name, is a name by which the corporation could not be registered without contravention of Section 19(1), the corporation may by special resolution change its name to a name by which the corporation can be registered without contravention of that Section and, if the Registrar so directs, shall so change it within 3 months after the date of the direction or such longer period as the Registrar allows and, if the corporation fails to comply with such direction, it is guilty of an offence.

(3) A change of name pursuant to this Act shall not affect the identity of the corporation or any right or obligations of the corporation or render

defective any proceedings by or against the corporation; any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(4) Where a corporation changes its name under the provisions of this Section, it shall forthwith surrender to the Registrar its certificate of incorporation and the Registrar shall issue a new certificate bearing the corporation's new name, which certificate shall have the same expiry date as that of the certificate surrendered and the change of name shall take effect only from the date of the issue of the new certificate.

21 Conversion from holding to trading corporation

(1) A holding corporation may convert to a trading corporation subject to the consent of the Registrar and subject to such conditions as he or she may impose.

(2) An application for conversion of a holding corporation to a trading corporation shall be lodged with the Registrar.

(3) A trading corporation shall not convert into a holding corporation.

(4) A conversion of a holding corporation into a trading corporation pursuant to the provisions of this Section shall not affect the identity of the corporation or any rights or obligations of the corporation or render defective any legal proceedings by or against the corporation, and any legal proceedings that could have been continued or commenced by or against it prior to the conversion may, notwithstanding any change in the corporation in consequence of its conversion, be continued or commenced by or against it after the conversion.

(5) Where a holding corporation converts into a trading corporation under the provisions of this Section, it shall forthwith surrender to the Registrar its certificate of incorporation and the Registrar shall issue a new certificate which shall have the same expiry date as that of the certificate surrendered and the conversion shall take effect only from the date of the issue of the new certificate.

22 Articles of incorporation

(1) There may be lodged with the memorandum of a corporation articles of incorporation signed by the subscribers to the memorandum prescribing regulations for the corporation.

[subs (1) am Act 38 of 2018 s 11, opn 15 Jan 2019]

(2) Articles shall be:
(a) printed;
(b) divided into numbered paragraphs; and
(c) signed by each subscriber to the memorandum or, if any subscriber is a corporation, sealed with its corporate seal or signed on its behalf.

23 Adoption of Table "A" or Table "B"

(1) Articles may adopt all or any of the articles contained in Table "A" of Schedule 2 in the case of a trading corporation or in Table "B" of Schedule 2 in the case of a holding corporation.

(2) In the case of a trading corporation if articles are not lodged and filed, or if articles are lodged and filed then insofar as the articles do not exclude or modify the articles contained in Table "A", the articles in Table "A" shall so far as applicable be the articles of the corporation in the same manner and to the same extent as if they were contained in articles lodged and filed.

(3) In the case of a holding corporation, if articles are not lodged and filed, or if articles are lodged and filed then insofar as the articles do not exclude or modify the articles contained in Table "B", the articles in Table "B" shall so far as applicable be the articles of the corporation in the same manner and to the same extent as if they were contained in articles lodged and filed.

24 Alteration of articles

(1) Subject to this Act, a corporation may by special resolution alter or add to its articles.

[amended by Act 38 of 2018]

(2) Subject to a copy of such resolution being lodged with the Registrar within one month of its being passed or within such further period as the Registrar may allow and subject to the provisions of this Act, any alteration or addition so made in the articles shall, on and from the date of the special resolution or such later date as is specified in the resolution, be as valid as if originally contained therein and be subject in like manner to alteration by special resolution.

(3) Subject to this Section, any corporation shall have the power to amend its articles by the adoption of all or any of the articles contained in Table "A" in the case of a trading corporation or contained in Table "B" in the case of a holding corporation by reference only to the articles in such table or to the numbers of specified articles contained therein, without being required in the special resolution effecting the amendment to set out the text of the articles so adopted.

25 Effect of memorandum and articles

(1) Subject to this Act, the memorandum and articles shall when filed bind the corporation and the members, including the holders of share warrants.

(2) All money payable by any member to the corporation under the memorandum or articles shall be a debt due from him or her to the corporation and shall be of the nature of a specialty debt situated in the Republic.

(3) Notwithstanding anything in the articles of a corporation, no member of the corporation, unless either before or after the alteration is made he or she agrees in writing to be bound thereby, shall be bound by an alteration made in the articles after the date on which he or she became a member so far as the alteration requires him or her to take or to subscribe for more shares than the number held by him or her at the date on which the alteration is made or in any way increases his or her liability as at that date to contribute to the share capital of, or otherwise to pay money to, the corporation.

26 Copies of the memorandum and articles

(1) A corporation on being so required by any member shall send to him or her

a copy of the memorandum and of the articles, if any, subject to payment to the corporation of $2 or the costs, whichever is the less.

(2) Where an alteration is made in the memorandum or articles of the corporation, a copy of the memorandum or articles shall not be issued by the corporation after the date of alteration unless:
  (a) the copy is in accordance with the alteration; or
  (b) a printed copy of the resolution making the alteration is annexed to the copy of the memorandum or articles and the particular clauses or articles affected are indicated in ink.

(3) Where an agreement required to be lodged with the Registrar under Section 122 affects the articles of a corporation, a copy of the articles shall not be issued by the corporation after the agreement is entered into unless a copy of the agreement is annexed to the copy of the articles.

(4) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty.

27 Transactions and branches

(1) Contracts on behalf of a corporation may be made as follows:
  (a) a contract which if made between private persons would be by law required to be in writing under seal may be made on behalf of the corporation in writing under the corporate seal of the corporation;
  (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 corporation in writing and signed by a person acting under its authority, express or implied; or
  (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 corporation by a person acting under its authority, express or implied,

and any contract so made shall be effectual in law and shall bind the corporation and its successors and all other parties thereto and may be varied or discharged in the manner in which it is authorised to be made.

(2) A document or proceeding requiring authentication by a corporation may be signed by an authorised officer of the corporation and need not be under its corporate seal.

(3) A corporation may by writing under its corporate seal empower a person either generally or in respect of any specified matters as its agent or attorney to execute deeds on its behalf and a deed signed by such an agent or attorney on behalf of a corporation and under his or her seal, or, subject to subsection (5), under the appropriate official seal of the corporation, shall bind the corporation and have the same effect as if it were under its corporate seal.

(4) The authority of any such agent or attorney shall as between the corporation and a person dealing with him or her continue for a period of 2 years from the date borne by the instrument conferring the authority or such lesser period as is therein specified but the authority may be terminated upon notice of the termination of the authority of the agent or attorney being given to the person dealing with him or her.

(5) A corporation and any branch of it may have for use in any place outside

the Republic an official seal which shall be a facsimile of the corporate seal of the corporation with the addition on its face of the name of every place where it is to be used and, in the case of a branch, the name of that branch and the official seal of a branch may be known as the branch seal.

(6) A corporation may in any of the ways set forth in the preceding subsections of this Section, or by instrument under the hand or seal of its secretary or under the hand or seal of a director or the hand or seal of a person or corporation nominated by such secretary or nominated by the directors of the corporation, establish a branch in any part of the world and the same shall thereby be established and a corporation may in like manner cease to have a branch. Upon the corporation ceasing to have a branch, any rights or obligations and any property of the branch shall be rights, obligations and property of the corporation.

(7) Where a corporation has established a branch it may in the instrument establishing the branch or in a subsequent instrument signed or sealed by the secretary or under its own seal appoint one or more persons to be branch directors and to constitute a local board, make provision for a branch seal and for its custody and prescribe the person by whom such seal is to be affixed. Subject to any directions or restrictions imposed from time to time by the directors of the corporation, a branch shall have power to bind the corporation and to issue shares or debentures of the corporation.

(8) A branch may enter into transactions in the same manner as the corporation may enter into transactions.

(9) Instruments made or authenticated under or by the use of any official seal of a corporation or a branch shall be as effective as if the corporate seal of the corporation had been affixed thereto; the date on which and the place at which the official seal is affixed to any instrument shall be shown on the instrument.

(10) No corporation or foreign corporation by itself or any of its branches shall lend within any prescribed period any amount or amounts in aggregate of more than $100,000.

[omitted by Law Revision Commission under powers authorised by Act 10 of 2019]

(11) A prescribed period for the purpose of subsection (10) shall, unless any other period as prescribed by regulations, be any period of 12 months.

(12) [subs (12) omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

(13) Upon conviction of the offence of making a loan in contravention of subsection (10) or subsection (11), the court may order that the corporation making such loan shall be wound-up under the provisions of this Act in addition to imposing any other penalty.

(14) [subs (14) omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

[s 27 am Act 38 of 2018 s 12, opn 15 Jan 2019]

28 Prohibition of carrying on business with fewer than statutory minimum of members

Where at any time the number of members of a corporation is reduced in the case of a holding corporation below one or in the case of a trading corporation below two and it carries on business for more than 6 months while the number

is so reduced, every person who is a member of the trading corporation during the time it so carries on business after those 6 months and every officer of any such trading or holding corporation during the time that it so carries on business after those 6 months and is cognisant of the fact that it is carrying on business with fewer than one or 2 members, as the case may be, shall be liable, and if more than one jointly and severally liable, for the payment of the whole of the debts of the corporation contracted during the time that it so carries on business after those 6 months and may be sued, and the corporation and every such member shall be guilty of an offence against this Act if the corporation so carried on business after those 6 months:

Provided that in the case of a holding corporation so long as debentures of the kind referred to in Section 66(12) are issued and not redeemed it shall be deemed, for the purpose of this Section, to have one member.

DIVISION 3 — RESTRICTIONS ON HOLDING CORPORATIONS

29 Restrictions on membership in holding corporations

(1) A holding corporation shall not have more than 20 members, counting joint holders of any one share as one person and excluding the holders of share warrants.

[subs (1) subst Act 21 of 2016 s 6, opn 12 May 2016]

(2) Where a holding corporation is in breach of subsection (1), the Minister may by notice in the Gazette order that the corporation be converted into a trading corporation and thereafter the corporation shall be deemed to be a trading corporation and shall be subject to the provisions of this Act applicable to trading corporations.

(3) Where an order is made under this Section for the conversion of a holding corporation into a trading corporation, the corporation shall forthwith surrender to the Registrar its certificate of incorporation and the Registrar shall issue a new certificate which shall have the same expiry date as that of the certificate surrendered and the conversion shall take effect only from the date of the issue of the new certificate and it shall be an offence for the corporation to carry on business after the date of the order until the conversion has taken effect.

30 Restrictions on transactions of holding corporations

(1) A holding corporation shall not carry on business as a factor or broker or as a manufacturer of or dealer, as principal or agent, in goods or raw materials whether the goods or raw materials are ascertained or unascertained and whether they are in existence or are to come into existence in the future.

(2) The provisions of this Section shall not prevent a holding corporation acquiring or selling goods or raw materials otherwise than in the course of carrying on the business of trading in goods or raw materials but the onus shall be on a corporation which acquires goods or raw materials and disposes of them within 1 year from the date of acquisition to prove that it acquired or sold such goods or raw materials otherwise than in the course of carrying on the business of trading in goods or raw materials.

(3) Every director and other officer of a holding corporation shall be personally liable for the debts and liabilities of a corporation which has carried on business or acted in contravention of subsection (1), unless he or she proves

that such business was carried on or such act done without his or her knowledge and that his or her lack of knowledge was not due to the neglect by him or her of his or her duties as such director or officer.

(4) A registered director and a secretary shall not be liable for such debts and liabilities unless it is proved that such director or secretary had actual knowledge of the contravention and expressly consented thereto.

[subs (4) am Act 38 of 2018 s 13, opn 15 Jan 2019]

[The next page is 31,201]

31 Requirement to issue a prospectus with any form of application for shares or debentures

(1) A person shall not issue, circulate or distribute any form of application for shares in or debentures of a corporation unless the form is issued, circulated or distributed together with a prospectus a copy of which has been lodged with and filed by the Registrar.

(2) Subsection (1) shall not apply if the form of application is issued, circulated or distributed in connection with shares or debentures which are not offered to the public but otherwise that subsection shall apply to any such form of application whether issued, circulated or distributed on or with reference to the formation of a corporation or subsequently.

(3) A corporation shall not without the approval of a general meeting vary the terms of a contract referred to in the prospectus, unless the variation is made subject to the approval of a general meeting.

32 Holding corporation not to invite investment from public

(1) No person or corporation shall issue an invitation to the public to deposit money with or lend money to a holding corporation.

(2) No person or corporation shall issue an invitation to the public or distribute forms of application to the public to subscribe for shares or debentures in a holding corporation.

33 Invitations to public to lend money to or deposit money with a trading corporation

(1) An invitation to the public to deposit money with or lend money to a trading corporation shall not be issued, circulated or distributed by the corporation or by any other person unless:

(a) a prospectus in relation to the invitation has been lodged with and filed by the Registrar;

(b) the prospectus contains an undertaking by the corporation that it will, within 2 months after the acceptance of any money as a deposit or loan from a person in response to the invitation, issue to that person a document which acknowledges, evidences or constitutes an acknowledgement of the indebtedness of the corporation in respect of that deposit or loan; or

(c) the document is described or referred to in the prospectus and in any other document, whether constituting or relating to the invitation, as:

(i) an unsecured note or an unsecured deposit note;

(ii) a mortgage debenture or certificate of mortgage debenture stock; or

(iii) a debenture or certificate of debenture stock,

and in accordance with the provisions of this Section.

(2) [subs (2) rep Act 38 of 2018 s 14, opn 15 Jan 2019]

(3) Where pursuant to an invitation referred to in subsection (1), a corporation has accepted from a person any money as a deposit or loan, the corporation shall, within 2 months after the acceptance of the money, issue to that person a document which:
   (a) acknowledges, evidences or constitutes an acknowledgement of the indebtedness of the corporation in respect of that deposit or loan; and
   (b) complies with the description contained in the prospectus and with any regulations made hereunder and contains on its face a statement that it is a document of that description.

(4) Nothing in this Section shall apply to a prescribed corporation and nothing in this Act shall require a prospectus to be issued in connection with any invitation to the public to deposit money with a prescribed corporation.

(5) Subject to regulations, the Minister may by notice in the Gazette declare a corporation to be a prescribed corporation for the purpose of this Section.

(6) Every corporation or other person that contravenes or fails to comply with any of the provisions of this Section and every officer of a corporation who is in default shall be guilty of an offence against this Act.

(7) For the purposes of this Section a document issued by a borrowing corporation certifying that a person named therein in respect of any deposit with or loan to the corporation is the registered holder of a specified number or value:
   (a) of unsecured notice or unsecured deposit notes;
   (b) of mortgage debentures or certificates of mortgage debenture stock; or
   (c) of debentures or certificates of debenture stock,

   issued by the corporation upon or subject to the terms and conditions contained in a trust deed referred to or identified in the certificate, shall be deemed to be a document evidencing the indebtedness of that corporation in respect of that deposit or loan.

34 Requirements of a prospectus

(1) Until regulations relating to the issue of prospectuses have been made, no prospectus shall be issued unless it has been approved as to its form and content by the Registrar.

(2) Upon regulations relating to the issue of prospectuses being made, a prospectus shall be issued only in accordance with the provisions of such regulations.

35 Advertisements

(1) No advertisement offering or calling attention to an offer or intended offer of shares in or debentures of a corporation or proposed corporation to the public for subscription or purchase shall be published in the Republic or elsewhere until it has been approved by the Registrar.

(2) Application for approval of an advertisement shall be lodged with the Registrar together with a copy of the advertisement verified in such manner as the Registrar directs.

(3) A person or corporation who publishes or causes to be published in the Republic or elsewhere an advertisement without the prior approval of the Registrar in breach of the provisions of subsection (1), is guilty of an offence.

36 Retention of oversubscriptions in debenture issue

(1) A corporation shall not accept or retain subscriptions to a debenture issue in excess of the amount of the issue as disclosed in the prospectus unless the corporation has specified in the prospectus:
  (a) that it expressly reserves the right to accept or retain over-subscriptions; and
  (b) a limit on the amount of the over-subscriptions that may be accepted or retained.

(2) Subject to the provisions contained in the Regulations, where a corporation specifies in a prospectus relating to a debenture issue that it reserves the right to accept or retain over-subscriptions:
  (a) the corporation shall not make, authorise or permit any statement or reference as to the asset-backing for the issue to be made or contained in any prospectus relating to the issue, other than a statement of reference to the total assets and the total liabilities of the corporation; and
  (b) the prospectus shall contain a statement or reference as to what the total assets and total liabilities of the corporation would be if over-subscriptions to the limit specified in the prospectus were accepted or retained.

37 Registration of prospectus

(1) A prospectus shall not be issued, circulated or distributed by a person unless a copy has been lodged with and filed by the Registrar.

(2) The Registrar shall not file a copy of any prospectus unless:
  (a) a copy signed by every director and by every person who is named therein as a proposed director of the corporation or by his or her agent authorised in writing is lodged with the Registrar on or before the date of its issue and the prescribed fee paid;
  (b) the prospectus appears to comply with the requirements of this Act and the Regulations or the Registrar is satisfied that any departure from the requirements of this Act or the Regulations by such prospectus is justified and is unlikely to mislead a person investing on the faith of its contents; and
  (c) there are also lodged with the Registrar copies, verified as the Registrar directs, of any consents required by Section 39 to the issue of the prospectus and all material contracts referred to in the prospectus or, in the case of such a contract not reduced into writing, a memorandum giving full particulars verified as the Registrar directs.

(3) Where a prospectus is issued without a copy having been so filed, the corporation and every person who is knowingly a party to the issue of the prospectus, shall be guilty of an offence against this Act.

38 Document containing offer of shares to be deemed to be a prospectus

(1) Where a corporation allots or agrees to allot to a person any shares or debentures of the corporation with a view to all or any of them being offered for sale to the public, the offer to the public shall be made through a corporation broker and 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 corporation and all enactments and rules of law as to minimum subscriptions, to advertisements, to the contents of prospectuses and to liability in respect of advertisements and statements and non-disclosures in prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly as if the shares or debentures had been offered to the public and as if persons accepting the offer in respect of any shares or debentures were subscribers but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of statements or non-disclosures in the document or otherwise.

(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 any of them for sale to the public was made within 6 months after the allotment or agreement to allot; or

(b) that at the date when the offer of them, or of any of them, for sale to the public was made the whole consideration to be received by the corporation in respect of the shares or the debentures had not been so received.

(3) The requirements of this Division as to prospectuses shall have effect as though the persons making an offer to which this Section relates were persons named in a prospectus as directors of a corporation.

(4) In addition to complying with the other requirements of this Division, the document making the offer shall state:

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

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

(5) Where an offer to which this Section relates is made by a corporation or a firm, it shall be sufficient if the document referred to in subsection (1) is signed on behalf of the corporation or firm by 2 directors of the corporation or not less than half of the members of the firm, as the case may be, and any such director or member may sign by his or her agent authorised in writing.

39 Expert's consent to issue of prospectus containing statement by him or her

(1) A prospectus inviting the subscription for or purchase of shares in or debentures of a corporation and including a statement purporting to be made by an expert or to be based on a statement made by an expert shall not be issued unless:

(a) he or she has given and has not, before the lodging of a copy of the prospectus for filing, withdrawn his or her written consent to the issue with the statement included in the form and context in which it is included; and

(b) there appears in the prospectus a statement that he or she has given and not withdrawn his or her consent.

(2) Where any prospectus is issued in contravention of this Section, the corporation and every person who is knowingly a party to the issue is guilty of an offence.

40 Civil liability for misstatement in prospectus

(1) Subject to this Section, each of the following persons shall be liable to pay compensation to all persons who subscribe for or purchase any shares or debentures on the faith of a prospectus for any loss or damage sustained by reason of any untrue statement therein, or by reason of the wilful non-disclosure therein of any matter of which he or she had knowledge and which he or she knew to be material, that is to say every person who:
- (a) is a director of the corporation at the time of the issue of the prospectus;
- (b) authorised or caused himself or herself 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;
- (c) is a promoter of the corporation; or
- (d) authorised or caused the issue of the prospectus.

(2) Notwithstanding anything in subsection (1), where the consent of an expert is required to the issue of a prospectus and he or she has given that consent, he or she shall not by reason only be liable as a person who has authorised or caused the issue of the prospectus except in respect of an untrue statement purporting to be made by him or her as an expert, and the inclusion in the prospectus of a name of a person as a trustee for debenture holders, auditor, banker, legal practitioner or stock or share broker shall not for that reason alone be construed as an authorisation by such person of the issue of the prospectus.

(3) No person shall be so liable, if he or she proves:
- (a) that, having consented to become a director of the corporation, he or she withdrew his or her consent before the issue of the prospectus, and that it was issued without his or her authority or consent;
- (b) that the prospectus was issued without his or her knowledge or consent and he or she gave reasonable public notice forthwith after he or she became aware of its issue;
- (c) that after the issue of the prospectus and before allotment or sale thereunder he or she, on becoming aware of any untrue statement therein, withdrew his or her consent and gave reasonable public notice of the withdrawal and of the reason; or
- (d) that:
  - (i) 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 or she had reasonable ground to believe, and did up to the time of the allotment or sale of the shares or debentures believe, that the statement was true;
  - (ii) as regards every untrue statement purporting to be a statement made by an expert or to be based on a statement made 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 he or she had reasonable ground to believe, and did up to the time of the issue of the prospectus believe, that the person making

the statement was competent to make it and that that person had given the consent required by Section 39 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before any allotment or sale thereunder; and

(iii) 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.

(4) Subsection (3) shall not apply in the case of a person liable, by reason of his or her having given a consent required of him or her by Section 39, as a person who has authorised or caused the issue of the prospectus in respect of an untrue statement purporting to have been made by him or her as an expert.

(5) A person who apart from this subsection, would under subsection (1) be liable, by reason of his or her having given a consent required of him or her by Section 39, as a person who has authorised the issue of a prospectus in respect of an untrue statement purporting to be made by him or her as an expert shall not be so liable if he or she proves:

(a) that, having given his or her consent under Section 39 to the issue of the prospectus, he or she withdrew it in writing before a copy of the prospectus was lodged with the Registrar;

(b) that, after a copy of the prospectus was lodged with the Registrar and before allotment or sale thereunder, he or she, on becoming aware of the untrue statement, withdrew his or her consent in writing and gave reasonable public notice of the withdrawal and of the reasons; or

(c) that he or she was competent to make the statement and that he or she had reasonable ground to believe and did up to the time of the allotment or sale of the shares or debentures believe that the statement was true.

(6) Where:

(a) the prospectus contains the name of a person as a director of the corporation, or as having agreed to become a director, and he or she has not consented to become a director, or has withdrawn his or her consent before the issue of the prospectus, and has not authorised or consented to the issue; or

(b) the consent of a person is required under Section 39 to the issue of the prospectus and he or she either has not given that consent or has withdrawn it before the issue of the prospectus,

the directors of the corporation, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised or caused the issue thereof shall be liable to indemnify the person so named or whose consent was so required against all damages, costs and expenses to which he or she may be made liable by reason of his or her name having been inserted in the prospectus or of the inclusion therein of a statement purporting to be made by him or her as an expert, or in defending himself or herself against any action or legal proceeding brought against him or her in respect.

(7) Where in any prospectus or advertisement of the kind referred to in Section 35(1) there is an untrue statement or wilful non-disclosure, a person who

authorised or caused the issue of the prospectus or advertisement shall be guilty of an offence against this Act unless he or she proves that the statement or non-disclosure was immaterial or that he or she had reasonable grounds for believing and did, up to the time of the issue of the prospectus, believe the statement was true or the non-disclosure was immaterial.

(8) A person shall not be deemed to have authorised or caused the issue of a prospectus by reason only of his or her having given the consent required by this Division to the inclusion therein of a statement purporting to be made by him or her as an expert.

[The next page is 31,301]

DIVISION 2 — RESTRICTIONS ON ALLOTMENT

41 Minimum subscriptions

(1) No allotment shall be made of any shares of a corporation offered to the public unless due public notice is given.

[subs (1) subst Act 38 of 2018 s 15, opn 15 Jan 2019]

(2) [subs (2) rep Act 38 of 2018 s 15, opn 15 Jan 2019]

(3) [subs (3) rep Act 38 of 2018 s 15, opn 15 Jan 2019]

(4) [subs (4) rep Act 38 of 2018 s 15, opn 15 Jan 2019]

(5) No allotment shall be made of any shares of a corporation offered to the public unless:

(a) the minimum subscription has been subscribed; and

(b) the sum payable on application for the shares so subscribed has been received by the corporation.

Where a cheque for the sum payable in paragraph (b) has been received by the corporation, the sum shall be deemed not to have been received by the corporation until the cheque is paid by the bank on which it is drawn.

(6) The minimum subscription shall be:

(a) calculated on the nominal value of each share and, where the shares are issued at a premium, on the nominal value of, and the amount of the premium payable on, each share; and

(b) reckoned exclusively of any amount payable otherwise than in cash.

(7) The amount payable on application on each share offered to the public shall not be less than 5 per centum of the nominal amount of the share.

(8) Any condition requiring or binding any applicant for shares to waive compliance with any requirements of this Section shall be void.

(9) No corporation shall allot, and no officer or promoter of a corporation or a proposed corporation shall authorise or permit to be allotted, shares or debentures to the public on the basis of a prospectus after the expiration of 12 months from the issue of the prospectus.

(10) Where an allotment of shares or debentures is made on the basis of a prospectus after the expiration of 12 months from the issue of the prospectus, such allotment shall not, by reason only of that fact, be voidable or void.

42 Application monies to be held in trust until allotment

(1) Subject to Section 41(3), (4) and (5) all applications and other monies paid prior to allotment by any applicant on account of shares or debentures offered to the public shall, until the allotment of such shares or debentures, be held by the corporation upon trust for the applicant and such monies shall be paid into and kept in a separate trust account at a bank pending allotment.

(2) Where default is made in complying with this Section, every officer of the corporation in default, who knowingly and wilfully authorises or permits the default is guilty of an offence.

(3) For the purposes of this Section,

"bank" means a corporation or foreign corporation lawfully carrying on business as a commercial and trading bank in Naoero and any corporation

or institution carrying on such business outside Naoero and approved for the purposes of this Section by the Registrar.

[subs (3) am Act 1 of 1973 s 6, opn 26 Jan 1973; Act 21 of 2026 s 5, opn 12 May 2026]

DIVISION 3 — SHARES IN CORPORATIONS

43 Return as to allotments

(1) Where a corporation makes any allotment of its shares, the corporation shall, within one month thereafter, cause to be lodged with the Registrar a return of the allotment stating:

(a) the number and nominal amounts of the shares comprised in the allotment;

(b) the date of the allotment;

(c) the amount, if any, paid, deemed to be paid, or due and payable on the allotment of each share;

(d) where the capital of the corporation is divided into shares of different classes, the class of shares to which each share comprised in the allotment belongs; and

(e) subject to subsection (2), in the case of a trading corporation, the full name and the address of each of the allottees and the number and class of shares allotted to him or her.

[subs (1) am Act 21 of 2016 s 7, opn 12 May 2016]

(2) In the case of a trading corporation where shares are allotted or deemed to have been allotted as fully or partly paid up otherwise than in cash and the allotment is made pursuant to a contract in writing, the trading corporation shall lodge with the return the contract evidencing the entitlement of the allottee or a copy of any such contract certified as prescribed.

(3) In the case of a trading corporation where shares are allotted or deemed to have been allotted as fully or partly paid up otherwise than in cash and the allotment is made:

(a) pursuant to a contract not reduced to writing;

(b) pursuant to a provision in the articles; or

(c) in satisfaction of a dividend declared in favour of, but not payable in cash, to the shareholders,

or where an account or reserve has been applied directly in paying up shares already issued, the corporation shall lodge with the return a statement containing such particulars as are prescribed.

(4) [subs (4) rep Act 38 of 2018 s 16, opn 15 Jan 2019]

(5) Where default is made in complying with this Section, every officer of the corporation who is in default shall be guilty of an offence against this Act.

44 Calls and forfeiture

(1) A corporation may:

(a) make arrangements on the issue of shares for varying the amounts and times of payment of calls as between shareholders;

(b) accept from any member the whole or any part of the amount remaining unpaid on any shares although no part of that amount has been called up; and

(c) pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

(2) A holding corporation may forfeit shares whether fully paid up or not on the happening of a specified event in accordance with the terms of issue of those shares but without releasing the member from present uncalled liability and, if any such shares are not reissued, without releasing him or her from future uncalled liability.

[subs (2) subst Act 21 of 2016 s 8, opn 12 May 2016]

(3) The event enabling forfeiture may be specified by the corporation after issue if the terms of issue so provide.

45 Reserve liability

A corporation may by special resolution determine that any portion of its share capital which has not been already called up is not capable of being called up except in the event and for the purposes of the corporation being wound-up, and thereupon that portion of its share capital is not capable of being called up except in the event and for the purposes of the corporation being wound-up, but no such resolution shall prejudice the rights of a person acquired before the passing of the resolution.

[s 45 subst Act 21 of 2016 s 9, opn 12 May 2016]

46 Bearer shares

A corporation shall not issue bearer shares or share warrants.

[s 46 subst Act 21 of 2016 s 9, opn 12 May 2016; am Act 38 of 2018 s 17, opn 15 Jan 2019]

47 Surrender of warrant

[s 47 rep Act 14 of 2016 s 5, opn 10 Mar 2016]

48 Extent of membership

[s 48 rep Act 14 of 2016 s 5, opn 10 Mar 2016]

49 Particulars in register

[s 49 rep Act 14 of 2016 s 5, opn 10 Mar 2016]

50 Regulations as to share warrants

[s 50 rep Act 14 of 2016 s 5, opn 10 Mar 2016]

51 Currency of shares, interest-bearing shares, redeemable shares, shares with special rights and gift shares

(1) A corporation shall have power to issue the number of shares stated in its memorandum and such shares may be divided into one or more classes, all of which classes shall, subject to regulations which may be made hereunder, consist of shares with a par value, with such designations, preferences, limitations and relative rights as shall be stated or provided for in the articles and the shares shall be expressed in Australian currency or in the money of any other country prescribed by regulations.

(2) The articles may limit or deny voting rights of or provide special voting rights for the shares of any class or the shares within any class to any extent not inconsistent with the provisions of this Act or the Regulations made hereunder.

(3) Without limiting the matter contained in the preceding subsections of this Section, a corporation may issue shares of preferred or special classes and in particular, but without limiting the generality of the foregoing, may issue shares:

(a) subject to the right of the corporation to redeem any of such shares at the price fixed by the articles for the redemption or at the price fixed pursuant to power contained therein;

(b) entitling the holders to cumulative, non-cumulative or partially cumulative dividends;

(c) having preference over any other class or classes of shares as to the payment of dividends;

(d) having a preferential right to a dividend at a fixed rate;

(e) having preference in respect of the assets of the corporation over any other class or classes of shares upon the voluntary or compulsory liquidation of the corporation;

(f) having rights only to return of paid up capital or to return of paid up capital plus no more than a fixed proportion upon a liquidation of the corporation;

(g) convertible into shares of any other class or into shares of any series of classes:

Provided that shares shall not be converted into a class having prior or superior rights or preferences as to dividends or distribution of assets upon liquidation over shares proposed to be converted unless the consent of all members holding shares having such prior or superior rights is obtained;

(h) subject to the provisions of Section 44, subject to forfeiture by the corporation in the circumstances or in the event provided in the articles or in the terms of issue of the shares:

Provided that:

(i) the articles shall not be altered to make shares subject to forfeiture which were not originally so issued without the holders being given an opportunity to object thereto and, in the event of their so doing, any alteration to that effect shall be void; and

(ii) a forfeiture or, where there have been previous forfeitures, the last forfeiture shall not be effective for any purpose if it by itself or in combination with any other forfeiture results in the reduction of the number of members of the corporation to less than permitted by this Act;

(i) unless the articles provide to the contrary, on which interest is payable by the corporation to the holder at such rates and upon such terms and conditions as are fixed at the time of issue or by the articles:

Provided that such interest shall not become due and payable by the corporation to the holder if the corporation has any liabilities actual or contingent other than liabilities for interest on shares and, upon a winding-up, there shall be deemed to be no liability in the corporation for the payment of such interest unless and until the claims of all creditors and the costs of the winding-up have been met or satisfied; and

(j) in the case of a holding corporation, of up to $10 in total nominal value by way of gift and without receiving any valuable consideration and

such shares shall be deemed to be fully paid shares. Shares issued by way of gift shall not for 3 months after the date of issue be contained in the same certificate as other shares, the certificates for all such shares shall clearly express the date of issue of the share or shares to which they relate and for at least 3 months after such date of issue such certificates shall bear a notation clearly written thereon that such shares are liable to forfeiture under the provisions of this Section within 3 months of the date of issue. No other note of or relating to the fact that such shares were issued without valuable consideration need be made upon the share certificate but a notification of such issue shall be made in the minute book of the corporation and in the register of members.

(4) Where shares are issued by way of gift and without consideration if at any time within 3 months from the date of issue of such shares, any of such persons to whom notice is required by this subsection to be given objects to the issue of all or any of such shares, the shares the issue of which is objected to shall be forfeited and the issue shall be deemed never to have been made.

[subs (4) subst Act 21 of 2016 s 11, opn 12 May 2016]

(5) Regulations may prescribe rates of exchange between any currency used in Naoero and the money of any other country in which shares are expressed or may prescribe a method for ascertaining the rate of such exchange and the rate of exchange so prescribed or ascertained in accordance with such regulations shall be deemed to be the rate of exchange between such money of such other country and the currency used in Naoero for all purposes relating to the nominal value or amount payable to the corporation or paid up in respect of such shares. The rate of exchange or the method of ascertaining the rate of exchange may be altered from time to time by regulations and may be altered retrospectively. Regulations made under this subsection may be made to apply in respect of corporations generally, particular corporations or classes of corporations.

[subs (5) am Act 21 of 2026 s 5, opn 12 May 2026]

52 No redemption when insolvent

No redemption or purchase of redeemable shares shall be made by a corporation that is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon a winding-up.

53 Statement of cancellation

(1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this Act and thereupon such shares shall be restored to the status of authorised, but unissued shares, unless the articles provide that such shares when redeemed or purchased will not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the memorandum and articles and shall reduce the number of shares of the class so cancelled which the corporation is authorised to issue by the number of shares so cancelled.

(2) The statement of cancellation shall be in the form prescribed by regulations and shall be lodged with the Registrar.

(3) Upon the filing of such statement of cancellation and payment of all fees and costs in relation thereto and as from the date of redemption or purchase as the case may be, the issued capital of the corporation shall be deemed to be reduced by the amount of the shares so cancelled and, in the case of a corporation whose articles provide that such shares shall not be reissued, the filing of the statement from the date aforesaid shall operate also as a reduction of the number of shares so cancelled which the corporation is authorised to issue.

(4) Nothing contained in this Section shall affect any right to cancel shares or to reduce capital in any other manner permitted by this Act.

54 Dealing by a Corporation in its own shares, etc

(1) Except as is otherwise expressly provided by this Act or the Regulations no corporation shall, whether directly or indirectly and whether by means of a loan, guarantee or the provision of security or otherwise, give any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by a person of or for any shares in the corporation or, where the corporation is a subsidiary, in its holding corporation or in any way purchase, deal in or lend money on its own shares.

(2) Nothing in subsection (1), shall prohibit:

(a) where the lending of money is part of the ordinary business of a trading corporation, the lending of money by the trading corporation in the ordinary course of its business;

(b) the provision by a trading corporation in accordance with any scheme for the time being in force, of money for the purchase of or subscription for fully paid shares in the trading corporation or its parent corporation, being a purchase or subscription by trustees of or for shares to be held by or for the benefit of employees of the corporation, including any director holding a salaried employment or office in the corporation;

(c) the making by a trading corporation of loans to persons, other than directors, *bona fide* in the employment of the corporation or of a subsidiary of the corporation with a view to enabling those persons to purchase fully paid shares in the corporation to be held by themselves by way of beneficial ownership; or

(d) the making of a loan by a holding corporation for the purpose of or in connection with a purchase of its own shares.

(3) Where there is any contravention of this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

55 Right of holding corporation to acquire and dispose of its own shares

(1) A holding corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available, and, if the articles so provide, or with the affirmative vote

of the holders of at least two-thirds of all shares entitled to vote thereon, to the extent of unreserved and unrestricted capital surplus available.

(2) Notwithstanding the foregoing, a holding corporation may purchase or otherwise acquire its own shares for the purpose of:
  (a) eliminating fractional shares;
  (b) paying dissenting shareholders entitled to payment for their shares under the provisions of this Act or the Regulations; or
  (c) effecting, subject to the other provisions of this Act, the retirement of its redeemable shares by redemption or by purchase at a price not to exceed the redemption price.

(3) No purchase of or payment for its own shares shall be made at a time when the holding corporation is insolvent or when such purchase or payment would make it insolvent, and if any such purchase or payment is made when the corporation is insolvent or when such purchase or payment makes it insolvent, the directors other than a registered director shall be personally liable to the extent of such payment in a winding-up of the corporation.

(4) Regulations may be made modifying or extending the provisions, limitations and restrictions of this Section.

56 Cancellation of re-acquired shares by holding corporation

A holding corporation may at any time by resolution of its directors cancel all or any part of the shares of the corporation of any class re-acquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed in accordance with the Regulations made hereunder.

57 Distributions from capital surplus of holding corporations

(1) The directors of a holding corporation may, from time to time, distribute to its shareholders out of capital surplus of the corporation, a portion of its assets, in cash or property, subject to the following provisions:
  (a) no such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent;
  (b) no such distribution shall be made unless the articles so provide or such distribution is authorised by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of the corporation;
  (c) no such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends have been fully paid;
  (d) no such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in the event of a winding-up to the holders of shares having preferential rights to the assets of the holding corporation in the event of a winding-up; and
  (e) each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution.

(2) The directors of a holding corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative

preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent, but each distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

58 Power to pay certain commissions

(1) A corporation may pay a commission to a person in consideration of his or her subscribing or agreeing to subscribe whether absolutely or conditionally for any shares or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the corporation, if:

(a) a payment of such a commission is authorised by the articles;

(b) in the case of:

(i) a trading corporation the commission does not exceed 10 per centum of the price at which the shares are issued or the amount or rate authorised by the articles, whichever is the less; and

(ii) a holding corporation the commission does not exceed the amount or rate authorised by or under the articles;

(c) the amount or rate of the commission is:

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

(ii) in the case of shares not so offered disclosed in any circular or notice inviting subscription for the shares; and

(d) the amount of shares for which persons have agreed for a commission to subscribe absolutely is disclosed in like manner.

(2) Except as provided in subsection (1), no corporation shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance to a person in consideration of his or her subscribing or agreeing to subscribe whether absolutely or conditionally for any shares or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the corporation, whether the shares or money are so applied by being added to the purchase money of any property acquired by the corporation or to the contract price of any work to be executed for the corporation or the monies paid out of the nominal purchase money or contract price or otherwise.

(3) Nothing in this Section shall affect the power of any corporation to pay brokerage, in addition to or in lieu of the commission referred to in subsection (1), but the amount or rate per centum of the brokerage paid or agreed to be paid by the corporation shall, in the case of shares offered to the public for subscription, be disclosed in the prospectus or, in the case of shares not offered to the public for subscription, be disclosed in the circular or notice inviting subscription for the shares, and regulations made under this Act may prescribe the maximum rate for such brokerage.

(4) A vendor to, promoter of, or other person who receives payment in money or shares from a corporation shall have power to apply any part of the money or shares so received in payment of a commission the payment of which, if made directly by the corporation, would have been lawful under this Section.

59 Issue of shares at a discount

(1) A trading corporation shall not issue shares at a discount.

(2) (a) Subject to the provisions of this Section a holding corporation may issue shares at a discount.

(b) No such issue shall be made while any share warrants for the corporation remain unsurrendered.

(c) No such issue shall be made without the prior approval of the Registrar and except on such terms and conditions as he or she thinks fit.

(d) [repealed]

(e) Upon approval being given, the corporation may issue at a discount not more than the number of shares mentioned on the notices to members within one month of the giving of approval.

(f) No shares shall be transferred between the date of lodging of the application and the date of approval, unless the application is withdrawn.

[subs (2) am Act 38 of 2018 s 18, opn 15 Jan 2019]

(3) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

60 Issue of shares at a premium by trading corporation

(1) Where a trading corporation issues shares for which a premium is received by the corporation, whether in cash or in the form of other valuable consideration, a sum equal to the aggregate amount or value of the premium on those shares shall be transferred to an account called "the share premium account" and the provisions of this Act relating to the reduction of the share capital of a trading corporation shall, subject to this Section, apply as if the share premium account were paid up share capital of the corporation.

(2) The share premium account may be applied:

(a) in paying up unissued shares to be issued to members of the corporation as fully paid bonus shares;

(b) in paying up in whole or in part the balance unpaid on shares previously issued to members of the corporation;

(c) in the payment of dividends if such dividends are satisfied by the issue of shares to members of the corporation; and

(d) in writing off:

(i) the preliminary expenses of the corporation; or

(ii) the expenses of, or the commission or brokerage paid or discount allowed on, any issue of shares or debentures of the corporation; or

(e) in providing for the premium payable on redemption of the debentures or redeemable shares.

61 Alteration of share capital

(1) A corporation may by special resolution alter the conditions of its memorandum and articles in any one or more of the following ways, that is to say it may:

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

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

(c) subdivide its shares or any of them into shares of smaller amounts than is fixed by the memorandum and articles so, however, that in the subdivision the proportion between 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; or

(d) 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 a person or which have been forfeited and diminish the amount of the share capital by the amount of the shares so cancelled.

(2) A cancellation of shares under this Section shall not be deemed to be a reduction of share capital within the meaning of this Act.

(3) Where a corporation has increased its share capital beyond the capital stated in its memorandum, it shall within 28 days after the passing of the resolution authorising the increase cause to be lodged with the Registrar notice in the prescribed form of the increase.

(4) Where any corporation fails to comply with the provisions of subsection (3), the corporation and every officer of the corporation who is in default is guilty of an offence.

62 Validation of shares improperly issued

Where a corporation has purported to issue or allot shares and the issue or allotment of those shares was invalid by reason of any provision of this Act or of the memorandum or articles of the corporation or otherwise or the terms of issue or allotment were inconsistent with or unauthorised by any such provision, the Registrar may upon application lodged with him or her by the corporation or by a holder or mortgagee of any of those shares or by a creditor of the corporation and upon being satisfied that in all the circumstances it is just and equitable so to do make an order validating the issue or allotment of those shares or confirming the terms of issue or allotment or both subject to such conditions, if any, as he or she may impose and upon such order being made and a copy being lodged by the corporation or by such holder, mortgagee or creditor with the Registrar, those shares shall be deemed to have been validly issued or allotted upon the terms of issue or allotment as varied by the conditions, if any, imposed by the Registrar.

63 Special resolution for reduction of share capital

(1) Subject to confirmation by the Registrar, a corporation may by special resolution reduce its share capital in any way and, in particular, without limiting the generality of the foregoing may do all or any of the following:

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

(b) cancel any paid up capital which is lost or unrepresented by available assets; or

(c) pay off any paid up share capital which is in excess of the needs of the corporation or which it is otherwise in the interests of the corporation as a whole to have paid off,

and may, so far as necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

[subs (1) am GN No 247/1972 to 246/72 item (e), opn 21 Aug 1972]

(2) Where the proposed reduction of share capital involves 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 Registrar so directs:

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

(b) the Registrar, unless satisfied on statutory declaration that there are no such creditors, 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 the amount of their debts or claims, and may publish notices fixing a final day on or before which creditors not entered on the list may claim to be so entered; or

(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 Registrar may dispense with the consent of that creditor on the corporation securing payment of his or her debt or claim by appropriating as the Registrar directs:

(i) if the corporation admits the full amount of the debt or claim or although not admitting it is willing to provide for it, the full amount of the debt or claim; or

(ii) if the corporation 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, an amount fixed by the Registrar.

(3) Notwithstanding the provisions of subsection (2) the Registrar may, having regard to any special circumstances of any case, direct that all or any of the provisions of that subsection shall not apply as regards any class of creditors.

(4) All applications to the Registrar under the provisions of subsections (2) and (3), shall be lodged with the Registrar and the corporation making such application shall bear the costs of any enquiry and advertisement directed by the Registrar under the provisions of such subsections.

(5) The Registrar, if satisfied with respect to every creditor who under subsection (2) is entitled to object that either his or her consent to the reduction has been obtained or his or her 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 he or she thinks fit and may by order:

(a) if for any special reason he or she thinks proper so to do, direct that the corporation 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 "and reduced"; and

(b) require the corporation to publish as the Registrar directs the reasons for reduction or such other information as the Registrar thinks expedient, and, if the Registrar thinks fit, the causes which led to the reduction.

(6) An order made under subsection (5), shall show the amount of the share capital of the corporation as altered by the order, 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 order deemed to be paid up on each share.

(7) A copy of the order made by the Registrar confirming the resolution for reducing share capital, shall be lodged by the corporation with the Registrar and the prescribed fee thereon shall be paid by the corporation and on the filing of such copy of the order the reduction of share capital confirmed by such order shall take effect.

(8) The certificate of the Registrar 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 corporation is such as is stated in the order.

(9) On the filing of the copy of the order the particulars shown in the order pursuant to subsection (6), shall be deemed to be substituted for the corresponding particulars in the memorandum and such substitution and any addition ordered by the Registrar to be made in the name of the corporation shall, in the case of any addition to the name, for such period as is specified in the order of the Registrar, be deemed to be an alteration of the memorandum for the purposes of this Act.

(10) A member, 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 order 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, but where any creditor entitled to object to the reduction is, by reason of his or her ignorance of the proceedings for reduction or of their nature and effect, with respect to his or her claim, not entered on the list of creditors, and after the reduction the corporation is unable, within 1 year after the debt or claim becomes due and payable or 1 year after the date of reduction whichever is the later, to pay the amount of his or her debt or claim:

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

(b) if the corporation is wound-up the court on an application by any such creditor and on proof of his or her ignorance of the proceedings for reduction or of their nature and effect with respect to his or her claim, 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,

but nothing in this subsection shall affect the rights of the contributories among themselves.

(11) Every officer of the corporation who:
(a) wilfully conceals the name of any creditor entitled to object to the reduction;
(b) wilfully misrepresents the nature or the amount of the debt or claim of any creditor; or
(c) aids, abets or is privy to any such concealment or misrepresentation,
is guilty of an offence and shall be personally liable for the amount of such debt or claim.

64 Rights of holders of classes of shares

(1) Where the share capital of a corporation is divided into different classes of shares and provision is made by its articles for authorising the variation or abrogation of the rights attached to any class of shares in the corporation, 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 class of shares are at any time varied or abrogated the holders of not less in the aggregate than 10 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 or abrogation, may lodge an application with the Registrar to have the variation or abrogation cancelled, and if any such application is made, the variation or abrogation shall not have effect until confirmed by the Registrar on application lodged by the corporation in the manner prescribed.

(2) An application shall not be invalid by reason of any applicant having consented to or voted in favour of the resolution for the variation or abrogation if the Registrar is satisfied that any particular fact was not disclosed by the corporation to that applicant before he or she so consented or voted and, for the purpose of this Section, he or she shall be deemed not to have consented to, or voted in favour of, such resolution.

(3) The application shall be lodged within one month after the date on which consent was given or the resolution was passed or such further time as the Registrar allows, and the application shall be lodged in the first instance in writing in the prescribed form.

(4) On the application, the Registrar, after hearing the applicants and any other persons who lodge an application with the Registrar to be heard and who appear to the Registrar to be interested, may, if satisfied having regard to all the circumstances of the case that the variation or abrogation would unfairly prejudice the shareholders of the class represented by the applicants, disallow the variation or abrogation as the case may be and shall, if not so satisfied, confirm it and the decision of the Registrar shall be final and the Registrar shall have a discretion as to how the costs and expenses of and incidental to such application shall be paid and may order accordingly.

(5) The corporation shall within 28 days after the making of an order by the Registrar on any such application cause to be lodged with the Registrar a copy of the Registrar's order and if default is made in complying with this provision, the corporation and every officer of the corporation who is in default is guilty of an offence.

(6) The issue by a corporation of preference shares ranking *pari passu* with

existing preference shares issued by the corporation shall be deemed to be a variation of the rights attached to those existing preference shares unless the issue of the first-mentioned shares was authorised by the terms of issue of existing preference shares or by the articles in force at the time the existing preference shares were issued.

65 Rights of holders of preference shares to be set out in articles

(1) No corporation shall allot any preference shares or convert any issued shares into preference shares unless there is set out in its articles the rights of the holders of those shares with respect to the payment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividend in relation to other shares or other classes of preference shares.

(2) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

[The next page is 31,401]

DIVISION 4 — DEBENTURES

66 Register and votes of debenture holders and copies of trust deed

(1) Subject to the provisions of subsections (12) to (22) every corporation which issues debentures shall keep a register of holders of debentures at the registered office of the corporation. A copy of the terms of debentures issued by the corporation shall be kept with the register. If the terms of a debenture incorporate in whole or in part the provisions of Table "C" of Schedule 2 or terms provided for in the articles of incorporation of the corporation or prescribed by regulations as being the form which may or shall be in any particular case adopted, the copy of the terms kept at the office of the corporation may disclose such terms by reference to the said table, articles or regulations.

[subs (1) am Act 21 of 2016 s 12, opn 12 May 2016]

(2) The register shall except when duly closed be open to the inspection of the registered holder of any debentures and of any holder of shares in the corporation and shall contain particulars of the names and addresses of the registered debenture holders and the amount of the debentures held by them.

(3) For the purposes of this Section, a register shall be deemed to be duly closed in accordance with the provisions contained in the articles or in the debentures or debenture stock certificates or in the trust deeds or other documents relating to or securing the debentures during such periods, not exceeding in the aggregate 30 days in any calendar year, as is therein specified.

(4) Every registered holder of debentures and every holder of shares in a corporation shall at his or her request be supplied by the corporation with a copy of the register of the holders of debentures of the corporation or any part of it on payment of $5 but the copy need not include any particulars as to any registered debenture holder other than his or her name and address and the debentures held by him or her.

(5) A copy of any trust deed relating to or securing any issue of debentures shall be forwarded by the corporation to a holder of those debentures at his or her request on payment of the sum of $5 or such less sum as is fixed by the corporation.

(6) Where inspection is refused, or a copy is refused or not forwarded within a reasonable time, but not more than 42 days, after a request has been made pursuant to this Section, the corporation and every officer of the corporation who is in default shall be guilty of an offence against this Act.

(7) [subs (7) rep Act 14 of 2016 s 6, opn 10 Mar 2016]

(8) [subs (8) rep Act 14 of 2016 s 6, opn 10 Mar 2016]

(9) [subs (9) rep Act 14 of 2016 s 6, opn 10 Mar 2016]

(10) [subs (10) rep Act 14 of 2016 s 6, opn 10 Mar 2016]

(11) [subs (11) rep Act 14 of 2016 s 6, opn 10 Mar 2016]

(12) Where the terms of any debentures issued by a holding corporation so provide, the provisions of this Act and of the articles of the corporation giving the members or any class of the members of the corporation the right

and power to vote and to demand a poll shall so far as they relate to that corporation for the period and upon the happening of the events, if any, specified in the debenture and while the debenture remains unredeemed, be void and of no effect for any purpose whatsoever and the following provisions of this subsection shall, subject to the terms of the debenture, thereupon and for such period as those provisions are void, have effect:

(a) the holders of all debentures under the terms of which those provisions of this Act and of the articles are for the time being void, shall have a right and power to vote and thereby determine all those matters in respect of which the members had the right and power to vote and thereby to determine under those provisions before they became void;

(b) every holder of such a debenture, or the trustee for any such holder, shall have one vote for each whole Australian dollar, or its equivalent in any other currency, of the principal sum the subject of the debenture outstanding at the time when the votes are counted;

(c) holders of such debentures may cast their votes by proxy or in writing without attending a meeting;

(d) a resolution in writing signed by a majority in value of the holders of such debentures shall be as effectual as would a resolution passed by a similar majority at a meeting duly convened and held for the purpose;

(e) the memorandum and articles of the corporation may not be altered;

(f) any provision in this Act or the articles of the corporation that anything is required or permitted to be done by a general meeting or by a resolution of the members shall be construed as requiring or permitting the same to be done by a resolution of those debenture holders in whom the right and power to vote are for the time being, passed by such a majority of votes as would, if the votes were votes of members, be the majority necessary to pass the resolution;

(g) subject to paragraph (d), notice of a meeting of those debenture holders in whom the right and power to vote are for the time being vested shall be given to such debenture holders and their trustees, if any, in the same manner as notice of a meeting of members is required to be given to members; and

(h) unless it is otherwise provided by the terms of the debenture, the quorum for any meeting of the holders of such debentures shall be 2.

(13) Where, pursuant to the terms of any debenture, the provisions of this Act and of the articles of a corporation giving the members of the corporation the right and power to vote have become void, those provisions shall, upon the expiration of the period, or upon the happening of any event, specified in that debenture or upon the redemption of the debenture and subject to there being no other debenture not redeemed under the terms of which such provisions are avoided, come into force and take effect in respect of that corporation in the same manner and to the same extent as before they became void and thereupon the debenture holders shall cease to have the rights and powers referred to in subsection (12).

(14) A corporation may cause to be kept in any place outside the Republic a branch register of debenture holders.

(15) The corporation shall lodge with the Registrar notice of the situation of the office where any branch register of debenture holders is kept and of any change in its situation and, if it is discontinued, of its discontinuance, and

any such notice shall be lodged within one month after the opening of the office or of the change or discontinuance, as the case may be.

(16) A branch register shall be kept in the same manner in which the principal register is by this Act required to be kept.

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

(18) Where a debenture is registered on a branch register, the debenture and all rights arising therefrom shall be situated in the place where it is registered and unless otherwise expressed in the debenture the principal and interest is payable in the money of the place of registration calculated at the exchange rate at noon on the date on which it becomes due and payable.

(19) The corporation shall transmit to the office at which its principal register is kept 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 that office duly entered up from time to time a duplicate of its branch register.

(20) The debentures registered in a branch register may be distinguished from the debentures registered in the principal register.

(21) The costs of maintaining branch registers shall, unless the debentures otherwise provide, be borne ratably according to the number of debentures registered thereon by the holders of such debentures.

(22) No debenture holder may transfer a debenture from one register to another but the corporation may transfer a debenture from one register to another provided that notice shall be given by the corporation to the debenture holder of such transfer and if the debenture holder by notice in writing to the corporation objects to such transfer within one month after such notice is given the amount of the principal and interest of the debenture shall become immediately due and payable.

(23) So far as a debenture does not exclude or modify the terms and conditions set forth in Table "C" of Schedule 2, a debenture when issued shall be issued upon the terms and conditions contained in Table "C".

(24) A debenture shall state on its face whether it is issued upon the terms contained in Table "C" of Schedule 2 or whether the terms of such Table are excluded in whole or in part and shall contain:

(a) the name of the corporation;

(b) the date of issue of the debenture;

(c) a statement of the quorum for meetings of debenture holders, which if it differs from that provided in Table "C" shall be a sufficient statement of the exclusion of that part of Table "C";

(d) a statement of the name of the debenture holder;

(e) a statement of the amount of principal for which such debenture is issued;

(f) the date upon which such principal is due and payable, if not payable on demand;

(g) the currency or currencies in which the principal and interest are payable; and

(h) the rate of interest, if any, per annum payable thereon,

and each debenture shall bear a serial number and be sealed or signed on behalf of the corporation or the branch of the corporation which issues it

and the debt payable thereunder shall be a specialty debt of the corporation or, if issued by a branch of a corporation, of that branch.

[subs (24) am Act 21 of 2016 s 12, opn 12 May 2016]

(25) A corporation may issue debentures upon terms that, at the option of the holder and subject to such other terms as are fixed upon the issue of the debenture or subsequently by agreement between the corporation and debenture holder and expressed in the debenture certificate, the holder may convert the debenture into shares in the corporation.

(26) Regulations may be made:

(a) restricting the right of corporations or any particular class of corporations to issue debentures which may be converted into shares; and

(b) prescribing the terms and conditions or the event or events upon which conversion shall or may take place.

67 Holding corporation not to issue debentures to public

No holding corporation shall offer or issue debentures to the public.

68 Perpetual debentures

(1) A condition contained in any debenture or in any deed for securing any debenture shall not be invalid by reason only that the debenture is 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 law or equity to the contrary notwithstanding.

(2) Notwithstanding anything in any debenture or trust deed the security for any debenture which is irredeemable or redeemable only on the happening of a contingency shall, if the court so orders, be enforceable forthwith or at such other time as the court directs if, on the application of the trustee for the holder of the debenture or, where there is no trustee, on the application of the holder of the debenture, the court is satisfied that:

(a) at the time of the issue of the debenture the assets of the corporation which constituted or were intended to constitute the security were sufficient to discharge the principal debt and any interest thereon;

(b) the security, if realised under the circumstances existing at the time of the application, would be likely to bring not more than 60 per centum of the principal sum of monies outstanding, regard being had to all prior charges and charges ranking *pari passu*, if any; and

(c) the assets covered by the security, on a fair valuation on the basis of a going concern after allowing a reasonable amount for depreciation are worth less than the principal sum and the corporation is not making sufficient profit to pay the interest due on the principal sum or, where no definite rate of interest is payable, interest thereon at such rate as the court considers would be a fair rate to expect from a similar investment.

(3) Subsection (2) shall not affect any power to vary rights or accept any compromise or arrangement created by the terms of a debenture or the relevant trust deed or under a compromise or arrangement between the corporation and creditors.

69 Reissue of redeemed debentures

(1) Where a corporation has redeemed any debentures:
  (a) unless any provision to the contrary, whether express or implied, is contained in any contract entered into by the corporation; or
  (b) unless the corporation has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

  the corporation shall have power to reissue the debentures, either by reissuing the same debentures or by issuing other debentures in their place, but the reissue of a debenture or the issue of one debenture in place of another under this subsection shall not be regarded as the issue of a new debenture for the purpose of any provision limiting the amount or number of debentures that may be issued by the corporation.

(2) After the reissue, the person entitled to the debenture shall have and shall be deemed always to have had the same priorities as if the debentures had never been redeemed.

(3) Where a corporation has deposited any of its debentures to secure advances on current accounts or otherwise the debentures shall not be deemed to have been redeemed by reason only of the account of the corporation having ceased to be in debit while the debentures remain so deposited.

70 Return of debentures

Every corporation which has issued debentures shall until they have all been redeemed and cancelled lodge with the Registrar at least once in every calendar year a return of debentures setting out the prescribed particulars.

71 Qualification of trustee for debenture holders

(1) Subject to this Section, every corporation which offers debentures to the public for subscription or purchase shall make provision in those debentures or in a trust deed relating to those debentures for the appointment of a trustee for the holders of the debentures.

(2) Where a borrowing corporation is required to appoint a trustee for the holders of any debentures in accordance with subsection (1) it shall not allot any of those debentures until the appointment has been made of a trustee for the debenture holders and such trustee corporation has consented to act as trustee.

(3) Without leave of the court, a trustee corporation shall not be appointed, hold office or act as trustee for the holders of debentures of a borrowing corporation if that trustee corporation is:
  (a) a director of the borrowing corporation;
  (b) a shareholder that beneficially holds shares in the borrowing corporation;
  (c) beneficially entitled to monies owed by the borrowing corporation to it;
  (d) a corporation that has entered into a guarantee in respect of the principal debt secured by those debentures or in respect of interest thereon; or
  (e) a corporation that is by virtue of Section 4(5) deemed to be related to:
    (i) any corporation of a kind referred to in paragraphs (a) to (d) inclusive of this paragraph; or

(ii) the borrowing corporation.

(4) Notwithstanding anything contained in subsection (3), that subsection shall not prevent a trustee corporation from being appointed, holding office or acting as trustee for the holders of debentures of a borrowing corporation by reason only that:

(a) the borrowing corporation owes to the trustee corporation or to a corporation that is deemed by virtue of Section 4(5) to be related to the trustee corporation any monies so long as such monies are:

(i) monies that, not taking into account any monies referred to in subparagraphs (ii) and (iii) of this paragraph, do not, at the time of the appointment or at any time within a period of 3 months after the debentures are first offered to the public, exceed one-tenth of the amount of the debentures proposed to be offered to the public within that period and do not, at any time after the expiration of that period, exceed one-tenth of the amount owed by the borrowing corporation to the holders of the debentures;

(ii) monies that are secured by, and only by, a first mortgage over land of the borrowing corporation, or by any debentures issued by the borrowing corporation to the public or by any debentures not issued to the public which are issued pursuant to the same trust deed as that creating other debentures issued at any time by the borrowing corporation to the public or by any debentures to which the trustee corporation, or a corporation that is by virtue of Section 4(5) deemed to be related to the trustee corporation, is not beneficially entitled; or

(iii) monies to which the trustee corporation, or a corporation that is by virtue of Section 4(5) deemed to be related to the trustee corporation, is entitled as trustee for holders of any debentures of the borrowing corporation in accordance with the terms of the debentures or of the relevant trust deed; and

(b) the trustee corporation, or a corporation that is deemed by virtue of Section 4(5) to be related to the trustee corporation, is a shareholder of the borrowing corporation in respect of shares that it beneficially holds, so long as the shares in the borrowing corporation beneficially held by the trustee corporation and by all other corporations that are deemed by virtue Section 4(5) to be related to it, do not carry the right to exercise more than one-tenth of the voting power at any general meeting of the borrowing corporation.

(5) Where default is made in complying with any provisions of this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

[s 71 am Act 38 of 2018 s 19, opn 15 Jan 2019]

72 Replacement of trustee

(1) A trustee for debenture holders may resign.

(2) Notwithstanding anything contained in any written law or in the relevant debentures or trust deeds a trustee for the holders of debentures shall not cease to be the trustee until another trustee has been appointed to be the trustee for the holders of the debentures and has taken office as such.

(3) Where provision has been made in the debentures or in the relevant trust

deed for the appointment of a successor to a trustee for the holders of the debentures upon retirement or otherwise the successor may be appointed in accordance with such provision providing such successor is a trustee.

(4) Where no provision has been made in the debenture or in the relevant trust deed for the appointment of any successor to a retiring trustee the borrowing corporation may appoint a successor which is a trustee.

(5) Notwithstanding anything in this Act or in any debentures or trust deed a borrowing corporation may with the consent of an existing trustee for the holders of the debentures appoint as successor to the trustee a trustee.

(6) Where the trustee for the holders of the debentures has ceased to exist or to be a trustee or refuses to act or continue to act, the Registrar may, on an application being lodged with him or her by the borrowing corporation or the trustee for the holders of the debentures or the holder of any of the debentures or of his or her own motion, appoint a successor to the trustee for the holders of the debentures in place of the trustee which has ceased to exist or to be a trustee or which has refused to act or continue to act as trustee as aforesaid providing such appointee is a trustee.

(7) Where a successor is appointed to be a trustee in place of any trustee the successor shall within one month after the appointment cause to be lodged with the Registrar notice in the prescribed form of the appointment.

[s 72 am Act 38 of 2018 s 20, opn 15 Jan 2019]

73 Registered trustee corporations

[s 73 rep Act 38 of 2018 s 21, opn 15 Jan 2019]

74 Contents of trust deed

(1) Where a corporation offers debentures to the public for subscription the debentures or the relevant trust deed shall contain a limitation on the amount that the borrowing corporation may, pursuant to those debentures or that deed, borrow and shall contain covenants by the borrowing corporation, or if the debentures do not or the trust deed does not expressly contain those covenants they or it shall be deemed to contain covenants by the borrowing corporation to the following effect:

(a) that the borrowing corporation will use its best endeavours to carry on and conduct its business in a proper and efficient manner;

(b) that to the same extent as if the trustee for the holders of the debentures were a director of the corporation the borrowing corporation will:

(i) make available for its or his or her inspection the whole of the accounting or other records of the borrowing corporation; and

(ii) give to it or him or her such information as is normally required with respect to all matters relating to the accounting or other records of the borrowing corporation;

(c) that the borrowing corporation will, on the application of persons holding not less than one-tenth in nominal value of the issued debentures to which the covenant relates delivered to its registered office, by giving notice delivered:

(i) to each of the holders of those debentures, at his or her address as specified in the register of debentures; and

(ii) by an advertisement in such newspaper as the Registrar shall direct addressed to all holders of those debentures,

summon a meeting of the holders of those debentures to consider the accounts and balance sheet for the last preceding annual accounting period of the borrowing corporation and to give to the trustee directions in relation to the exercise of the trustee's powers, such meeting to be held as prescribed by regulations, if any, and otherwise at a time and place specified in the notice and advertisement under the chairmanship of a person nominated by the trustee or such other person as is appointed in that behalf by the holders of those debentures present at the meeting; and

(d) that all interest, principal and premium, if any, payable to the debenture holders under the terms of the said debentures or the relevant trust deed shall be paid to the debenture holders in Naoero free of all income tax, stamp duty, or other tax, or impost or deductions of any kind whatsoever, notwithstanding any written law of any other State to the contrary.

[subs (1) am Act 21 of 2016 s 13, opn 12 May 2016; Act 38 of 2018 s 22, opn 15 Jan 2019; Act 21 of 2026 s 5, opn 12 May 2026]

(2) Subject to this Section, any provision contained in a trust deed relating to or securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee from or indemnifying it against liability for breach of trust where it fails to show the degree of care and diligence required of it as trustee having regard to the provisions of the trust deed or contract conferring on it any powers, authorities or discretions.

(3) Subsection (2), shall not invalidate:

(a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or

(b) any provision enabling such a release to be given:

(i) on the agreement thereto of a majority of not less than three-fourths in nominal value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and

(ii) either with respect to specific acts or omissions or on the dissolution of the trustee or on its ceasing to act.

75 Duties of trustees

(1) A trustee for the holders of debentures:

(a) shall exercise reasonable diligence to ascertain whether or not the assets of the borrowing corporation and each of its guarantor corporations which are or may be available by way of security or otherwise are sufficient or are likely to be or become sufficient to discharge the principal debt as and when it becomes due;

(b) shall satisfy itself that each prospectus relating to the debentures does not contain any matter which is inconsistent with the terms of the debentures or with the relevant trust deed;

(c) shall ensure that the borrowing corporation complies with the provisions of Division 6 of this Part so far as they relate to the debentures and are applicable;

(d) shall exercise reasonable diligence to ascertain whether or not the borrowing corporation and each of its guarantor corporations have committed any breach of the covenants, terms and provisions of the debentures or the trust deed;

(e) except where it is satisfied that the breach would not materially prejudice the security, if any, for the debentures or the interest of those holders, shall take steps and do all such things as it is empowered to do to cause the borrowing corporation and any of its guarantor corporations to remedy the breach of those covenants, terms and provisions;

(f) where the borrowing corporation or any of its guarantor corporations fails when so required by the trustee to remedy any breach of the covenant's terms and provisions of the debentures or the trust deed, may place the matter before a meeting of holders of the debentures, submit such proposals for the protection of their investment as the trustee considers necessary or appropriate and obtain the directions of the holders in relation thereto; and

(g) where the borrowing corporation submits to those holders a compromise or arrangement shall give them a statement explaining the effect of the compromise or arrangement and, if it thinks fit, recommend to them an appropriate course of action to be taken by them in relation thereto.

(2) Where, after due enquiry, the trustee for the holders of the debentures at any time is of the opinion that the assets of the borrowing corporation and of any of its guarantor corporations which are or should be available whether by way of security or otherwise, are insufficient or likely to become insufficient, to discharge the principal debt as and when it becomes due, the trustee may lodge an application in the prescribed form with the Registrar for an order under this subsection and the Registrar may, on such application, after giving the borrowing corporation an opportunity for making representations in relation to that application, by order in writing served on the corporation at its registered office in the Republic, impose such restrictions on the activities of the corporation, including restrictions on advertising for deposits or loans and on borrowing by the corporation as the Registrar thinks necessary for the protection of the interests of the holders of the debentures or the Registrar may, and, if the borrowing corporation so requires, shall, direct the trustee to lodge an application with the Registrar for an order under subsection (4) and the trustee shall apply accordingly.

(3) Where:

(a) after due enquiry, the trustee at any time is of the opinion that the assets of the borrowing corporation and of any of its guarantor corporations which are or should be available are insufficient, or likely to become insufficient, to discharge the principal debt as and when it becomes due; or

(b) the corporation has contravened or failed to comply with an order made by the Registrar under subsection (2),

the trustee may, and, where the borrowing corporation has requested the trustee to do so, the trustee shall, lodge an application with the Registrar for an order under subsection (4).

(4) Where an application is lodged with the Registrar under subsection (2) or subsection (3), the Registrar may, after giving the borrowing corporation an opportunity of being heard, by order do all or any of the following:

(a) direct the trustee to convene a meeting of the holders of the debentures for the purpose of placing before them such information relating their interests and such proposals for the protection of their interests as the trustee considers necessary or appropriate and for the purpose of obtaining their directions in relation thereto and give such directions in relation to the conduct of the meeting as the Registrar thinks fit;

(b) direct that all or any actions or proceedings before any court by or against the borrowing corporation be stayed, unless the court otherwise orders; and before making an order removing such stay, the court shall give the Registrar an opportunity to be heard;

(c) restrain the payment of any monies by the borrowing corporation to the holders of debentures of the corporation or to any class of such holders;

(d) appoint a receiver of such of the property as constitutes the security, if any, for the debentures or any part of it; or

(e) give such further directions from time to time as may be necessary to protect the interests of the holders of debentures, the members of the borrowing corporation or any of its guarantor corporations or the public,

but in making any such order the Registrar shall have regard to the rights of all creditors of the borrowing corporation.

(5) The Registrar may vary or rescind any order made under subsection (4), as he or she thinks fit.

(6) A trustee in lodging any application with the Registrar shall have regard to the nature and kind of the security given when the debentures were offered to the public, and, if no security was given, shall have regard to the position of the holders of the debentures as unsecured creditors of the borrowing corporation.

(7) A trustee may rely upon any certificate or report given or statement made by the solicitor, auditor or officer of the borrowing corporation or guarantor corporation if it has reasonable grounds for believing that such solicitor, auditor or officer was competent to give or make the certificate, report or statement.

(8) For the purpose of subsection (7), ***"solicitor"*** includes a person who is qualified by the laws of the country where he or she gives the certificate or makes the report or statement to practice as a solicitor or as a legal practitioner, by whatsoever title he or she may be called, in that country and ***"auditor"*** shall include a person properly appointed under the laws of the country where he or she gives the certificate or makes the report or statement to be, or to act as, the auditor of the corporation in that country.

76 Proper law

Notwithstanding any provisions to the contrary, all debentures issued in the Republic and the relevant trust deed relating to such debentures shall be governed by the written laws of the Republic.

77 Obligations of borrowing corporations

(1) Where there is a trustee for the holders of any debentures of a borrowing corporation the directors of the borrowing corporation shall:

(a) at the end of a period not exceeding 3 months ending on a day which the trustee is hereby required to notify to the borrowing corporation in writing; and

(b) at the end of each succeeding period thereafter, being a period of 3 months or such shorter time as the trustee may, in any special circumstances, allow,

prepare a report that relates to that period and complies with the requirements of subsection (2) and within one month after the end of each such period cause to be lodged with the Registrar a copy of the report relating to this period.

(2) The report referred to in subsection (1) shall be signed by not less than 2 of the directors on behalf of all of them and shall set out in detail any matters adversely affecting the security, or the interests of the holders of the debentures and, without affecting the generality of the foregoing, shall state:

(a) whether or not the limitations on the amount that the corporation may borrow have been exceeded;

(b) whether or not the borrowing corporation and each of its guarantor corporations have observed and performed all the covenants and provisions binding upon them respectively by or pursuant to the debentures or any trust deeds;

(c) whether or not any event has happened which has caused or could cause the debentures or any provision of the relevant trust deed to become enforceable and, if so, particulars of that event;

(d) whether or not any circumstances affecting the borrowing corporation, its subsidiaries or its guarantor corporation or any of them have occurred which materially affect any security or charge within or created by the debentures or any trust deed and, if so, particulars of those circumstances;

(e) whether or not there has been any material change in the nature of the business of the borrowing corporation or any of its subsidiaries or any of its guarantor corporations since the debentures were first issued to the public which has not previously been reported upon as required by this Section and, if so, particulars of that change; and

(f) where the borrowing corporation has deposited money with or lent money to or assumed any liability of a corporation which pursuant to Section 4(5) is deemed to be related to the borrowing corporation, particulars of:

(i) the total amount so deposited or lent and the extent of any liability so assumed during the period covered by the report; and

(ii) the total amount owing to the borrowing corporation in respect of money so deposited or lent and the extent of any liability so assumed as at the end of the period covered by the report,

distinguishing between deposits, loans and assumptions of liability which are secured and those which are unsecured, but not including any deposit or loan to or any liability assumed on behalf of a corporation if that corporation has guaranteed the repayment of the debentures of the borrowing corporation and has secured the guarantee by a charge over its assets in favour of the trustee for the holders of the debentures of the borrowing corporation.

(3) Where there is a trustee for the holders of any debentures issued by a borrowing corporation the borrowing corporation and each guarantor corporation which has guaranteed the repayment of the monies raised by the issue of those debentures shall, within 42 days after the creation of the charge, in writing furnish the trustee for the holders of the debentures, whether or not any demand by it has been made, with particulars of any charge created by the corporation or the guarantor corporation, as the case requires, and when the amount to be advanced upon the security of the charge is indeterminate, within 14 days after the advance, with particulars of the amount or amounts in fact advanced, but where any such advances are merged in a current account with bankers or trade creditors it shall be sufficient for particulars of the net amount outstanding in respect of any such advances to be furnished every 3 months.

(4) The directors of every borrowing corporation which has issued debentures to the public and of every guarantor corporation which has guaranteed the repayment of the monies raised by the issue of the debentures to the public shall at some date not later than 10 months, or in the case of any particular corporation, not later than the expiration of such other period as is for the time being fixed by the Registrar with the consent of the trustee for the debenture holders for that corporation, after the expiration of each financial year of the corporation cause to be made out and lodged with the Registrar and with the trustee for the holders of the debentures a profit and loss account together with a detailed statement of outstanding liability under such debentures for the period from the end of that financial year and a balance sheet as at the end of the period to which the profit and loss account relates.

(5) The provisions of Sections 134 and 136 and of any regulations made thereunder shall with such adaptations as are necessary be applicable to every profit and loss account and balance sheet made out and lodged pursuant to subsection (4) as if that profit and loss account and balance sheet were a profit and loss account and balance sheet referred to in those sections or regulations but notwithstanding the foregoing provisions of this subsection where any guarantor corporation, being a corporation which is incorporated in the United Kingdom or any state or territory of the United States of America or in any state or territory of the Commonwealth of Australia or in any other state or territory declared for the purposes of this Section by the Minister, has lodged with the Board of Trade in the United Kingdom or the Security and Exchange Commission of the United States of America or the Registrar of Companies in the state or territory of the Commonwealth of Australia or the prescribed authority in any such other declared state or territory a profit and loss account and balance sheet for the relevant period that shall be sufficient compliance with the requirements of subsection (4) if there is, with the consent of the trustee for the debenture holders, lodged with the Registrar and trustee for the debenture holders certified copies of the profit and loss account and balance sheet so lodged.

(6) Where the directors of a borrowing corporation do not lodge with the trustee for the holders of debentures a report as required by subsection (1) or where the directors of a guarantor corporation do not lodge with the trustee the balance sheet or profit and loss account and report as required by subsection (4) within the

time prescribed the trustee shall as soon as conveniently possible, lodge notice of that fact with the Registrar.

78 Obligation of guarantor corporation to furnish information

(1) For the purpose of the preparation of a report that, by this Act, is required to be signed by or on behalf of the directors of a borrowing corporation or any of them, that corporation may, by notice in writing require any of its guarantor corporations to furnish it with any information relating to that guarantor corporation which is, by this Act, required to be contained in that report, and that guarantor corporation shall furnish the borrowing corporation with that information before such date, being a date not earlier than 14 days after the notice is given, as may be specified in that behalf in the notice.

(2) A corporation which fails to comply with the requirement contained in a notice given pursuant to subsection (1) and every officer of that corporation who is in default is guilty of an offence.

79 Loans and deposits to be immediately repayable on certain events

(1) Where in any prospectus issued in connection with an invitation to the public to subscribe for or to purchase debentures of a corporation there is a statement as to any particular purpose or project for which the monies received by the corporation in response to the invitation are to be applied, the corporation shall from time to time make reports to the trustee for the holders of those debentures as to the progress that has been made towards achieving such purpose or completing such project.

(2) Each such report shall be included in the report required to be furnished to the trustee for the holders of the debentures under Section 77(1).

(3) Where it appears to the trustee for the holders of the debentures that such purpose or project has not been achieved or completed within the time stated in the prospectus within which the purpose or project is to be achieved or completed or, where no such time was stated, within a reasonable time, the trustee may and, if in its opinion it thinks it is necessary for the protection of the interests of the holders of the debentures, shall give notice in writing to the corporation requiring it to repay the monies so received by the corporation and, within one month after such notice is given, lodge with the Registrar a copy of such notice.

(4) The trustee shall not give a notice pursuant to the provisions of subsection (3), if it is satisfied:

(a) that the purpose or project has been substantially achieved or completed;

(b) that the interests of the holders of the debentures have not been materially prejudiced by the failure to achieve or complete the purpose or project within the time stated in the prospectus or within a reasonable time; or

(c) that the failure to achieve the purpose or project was due to circumstances, other than shortage of funds, beyond the control of the

corporation that could not reasonably have been foreseen by that corporation at the time that the prospectus was issued.

[The next page is 31,501]

80 Nature of shares

The shares of any member in a corporation shall be personal estate, transferable in the manner provided by the articles, and shall not be of the nature of real estate.

81 Numbering of shares

(1) Each share in a corporation shall be distinguished by an appropriate number.

(2) Notwithstanding subsection (1):

(a) if at any time all the issued shares in a trading corporation or all the issued shares therein of a particular class are fully paid up and rank equally for all purposes, none of those shares need thereafter have a distinguishing number so long as each of those shares remains fully paid up and ranks equally for all purposes with all shares of the same class for the time being issued and fully paid up; or

(b) if all the issued shares in a trading corporation are evidenced by certificates in accordance with the provisions of Section 82 and each certificate is distinguished by an appropriate number and that number is recorded in the register of members none of those shares need have a distinguishing number.

82 Certificate to be evidence of title

(1) A certificate under the corporate or official seal of a corporation or any branch specifying any shares held by any member of the corporation shall be *prima facie* evidence of the title of the member to the shares.

(2) Every share certificate or warrant shall be under the corporate or official seal of the corporation or a branch and shall state:

(a) the name of the corporation and the authority under which the corporation is constituted;

(b) the address of the registered office of the corporation in the Republic or, where the certificate is issued by a branch of the corporation, the address of that branch; and

(c) the nominal value and the class of the shares and the extent to which the shares are paid up.

(3) Failure to comply with this Section shall not affect the rights of any holder of shares.

(4) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

83 Corporation may have duplicate corporate seal

A corporation may if authorised by its articles have a duplicate corporate seal which shall be a facsimile of the corporate seal of the corporation with the addition on its face of the words "Share Seal" and a certificate under such duplicate seal shall be deemed to be sealed with the corporate seal of the corporation for the purposes of this Act.

84 Loss or destruction of certificate

(1) Subject to subsection (2), where a certificate or other document of title of shares or debentures is lost or destroyed the corporation shall on payment of a fee not exceeding $1 issue a duplicate certificate document in lieu to the owner on his or her application accompanied by:

(a) a statutory declaration that the certificate or document has been lost or destroyed, and has not been pledged, sold or otherwise disposed of and, if lost, that proper searches have been made; and

(b) an undertaking in writing that, if it is found or received by the owner, it will be returned to the corporation.

[subs (1) am Act 21 of 2016 s 14, opn 12 May 2016]

(2) The directors of the corporation may, before accepting an application for the issue of a duplicate certificate or document, require the applicant:

(a) to cause an advertisement to be inserted in a newspaper circulating in a place specified by the directors stating that the certificate or document has been lost or destroyed and that the owner intends after the expiration of 28 days after the publication of the advertisement to apply to the corporation for a duplicate; or

(b) to furnish a bond for an amount equal to at least the current market value of the shares or debentures indemnifying the corporation against loss following on the production of the original certificate or document,

or may require the applicant to do both of those things.

(3) [subs (3) rep Act 21 of 2016 s 14, opn 12 May 2016]

(4) [subs (4) rep Act 21 of 2016 s 14, opn 12 May 2016]

85 Instruments of transfer

(1) A corporation shall not register a transfer of shares or debentures unless a proper instrument of transfer has been delivered to the corporation, but this subsection may not prejudice any power to register as a shareholder or debenture holder a person to whom the right to any shares in or debentures of the corporation has been transmitted by operation of law.

(2) A transfer of the share, debenture or other interest of a deceased person made by his or her personal representative is, although the personal representative is not himself or herself a member of the corporation or holder of a debenture or other interest, as valid as if he or she had been such a member or holder at the time of the execution of the instrument of transfer.

(3) A corporation may refuse to register a transfer of the share or debenture of a deceased person otherwise than by a personal representative of that person who has taken out or obtained probate or letters of administration of the estate of the deceased person.

[s 85 subst Act 21 of 2016 s 15, opn 12 May 2016]

86 Official Register

(1) The Registrar shall establish a register to be known as the Official Register.

(2) A member of a corporation may lodge with the Registrar for registration a share warrant, accompanied by a request in the prescribed form.

(3) The Registrar shall number serially in order of lodgment all requests received under the provisions of this Section.

(4) The Registrar shall enter in the Official Register:
(a) the serial number of the request;
(b) the name of the corporation;
(c) the numbers of the shares and the class, if any, or description thereof;
(d) the name of the beneficial owner as set forth in the request;
(e) the date upon which the request was lodged and the time of its lodgment;
(f) the name and address of the person to whom a certificate as to the contents of the register in respect of the entry may be given;
(g) the name and address of the applicant; and
(h) the number of the caveat, if any, to which the entry is subject.

(5) Upon making the entry in the Official Register, the Registrar shall cause the warrant to be marked with the fact and date of entry and with the registered number and return the same to the person lodging it, or as he or she directs.

(6) A person may lodge a caveat in the prescribed form against the entry of particulars of any share warrant in the Official Register and upon such share certificate or warrant being lodged for entry, the Registrar shall enter the particulars relating thereto subject to the regulations as to caveats and shall give notice to the person named in the caveat to receive notice.

(7) [subs (7) rep Act 14 of 2016 s 8, opn 10 Mar 2016]

(8) Upon application by or on behalf of any of the persons whose names are entered in the Official Register under the provisions of subsection (4)(f) and (g) or, in the case of their death or incapacity, of their personal representatives, the Registrar shall issue to the applicant or the person making the application on his or her behalf a certificate of the particulars registered relating to such entry.

(9) Upon application lodged in the form prescribed by the beneficial owner named in the Official Register or his or her personal representative, accompanied by the prescribed fee and by the share warrant, the entry may be cancelled and the Registrar shall thereupon enter in the Official Register the date of cancellation and endorse on the warrant the fact of cancellation of the entry.

87 Registration of transfer at request of transferor

(1) On the request in writing of the transferor of any share or debenture in a corporation, the corporation shall enter in the appropriate register the names 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.

[subs (1) am Act 21 of 2016 s 16, opn 12 May 2016]

(2) On the request in writing of the transferor of a share or debenture the corporation shall by notice in writing require the person having the possession, custody or control of the share certificate or debenture and the instrument of transfer or either of them to bring it or them into the office of the corporation within a stated period, being not less than 14 and not more than 42 days after the date of the notice, to have the share certificate or debenture cancelled or ratified and the transfer registered or otherwise dealt with.

[subs (2) am Act 14 of 2016 s 9, opn 10 Mar 2016]

(2A) All holders of bearer shares or debentures from the date of the certification by the Speaker of the *Corporations (Amendment) Act No 2 2016* are

required under this Act to convert their bearer securities to ordinary shares or debentures prior to the next renewal of the respective corporation's annual registration.

[subs (2A) insrt Act 21 of 2016 s 16, opn 12 May 2016]

(2B) Securities not converted within this period will be forfeited in accordance with Section 44(2) and (3) and the corporation will from their annual renewal date cancel these securities and issue statements of cancellation in accordance with Section 53 with all rights and privileges annulled in their entirety.

[subs (2B) insrt Act 21 of 2016 s 16, opn 12 May 2016]

(2C) Any securities cancelled will carry no right of reinstatement.

[subs (2C) insrt Act 21 of 2016 s 16, opn 12 May 2016]

(3) Where a person refuses or neglects to comply with the notice given under subsection (2), the transferor may lodge an application with the Registrar to issue a notice to that person to show cause why the documents mentioned in the notice should not be delivered up or produced as required by the notice.

(4) Regulations may be made providing for the issue of a new certificate, the cancellation of the old, and otherwise for regulating the rights of all persons in respect of the documents the subject of such notice.

88 Notice of refusal to register transfers

(1) Where a corporation refuses to register a transfer of any shares, debentures or other interests in the corporation, it shall within 2 months after the date on which the transfer was lodged with it send to the transferee notice of the refusal.

(2) Where default is made in complying with this Section the corporation and every officer of the corporation who is in default is guilty of an offence.

89 Certification of transfers

(1) The certification by a corporation of any instrument of transfer of shares, debentures or other interest in the corporation, shall be taken as a representation by the corporation to a person acting on the faith of the certificate that there have been produced to the corporation such documents as on the face of them show a *prima facie* title to the shares, debentures or other interests in the transferor named in the instrument of transfer but not as a representation that the transferor has any title to the shares, debentures or other interests.

(2) Where any certification is expressed to be limited to 42 days or any longer period from the date of certification, the corporation and its officers shall not, in the absence of fraud or wilful default or wilful neglect, be liable in respect of the registration of any transfer of shares, debentures or other interests comprised in the certification after the expiration of the period so limited or any extention given by the corporation, if the instrument of transfer has not within that period been lodged with the corporation for registration.

(3) For the purposes of this Section:

(a) an instrument of transfer shall be deemed to be certified if it bears the words "Certificate Lodged" or words to the like effect;

(b) the certification of an instrument of transfer shall be deemed to be made by a corporation if:

(i) the person issuing the instrument is a person authorised to issue certified instruments of transfer on the corporation's behalf; and

(ii) the certificate is signed by a person authorised to certify transfers on the corporation's behalf or by any officer either of the corporation or of a corporation so authorised; and

(c) a certificate that purports to be authenticated by a person's signature or initials, whether handwritten or not, shall be deemed to be signed by him or her unless it is shown that the signature or initials were not placed there by him or her and were not placed there by any other person authorised to use the signature or initials for the purpose of certifying transfers on the corporation's behalf.

90 Duties of corporation with respect to issue of certificate

(1) Every corporation shall within 2 months after the allotment of any of its shares or debentures, and within one month after the date on which a transfer, other than such a transfer as the corporation is for any reason entitled to refuse to register and does not register, of any of its shares or debentures is lodged with the corporation, complete, and have ready for delivery, the appropriate certificates, warrants and debentures in connection with the allotment or transfer, unless in the case of shares the conditions of issue otherwise provide.

(2) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default shall be guilty of an offence against this Act.

(3) Where any corporation on which a notice has been served requiring the corporation to make good any default in complying with the provisions of this Section, fails to make good the default within 21 days after the service of the notice, the Registrar may on the application of the person entitled to have the certificate or warrant for the shares or debentures delivered to him or her make an order directing the corporation and every officer of the corporation to make good the default within such time as is specified in the order, and the order may provide that all costs and expenses of and incidental to the application shall be borne by the corporation and by any officer of the corporation in default in such proportions as the Registrar thinks fit.

DIVISION 6 — REGISTRATION OF CHARGES

91 Filing of charges

(1) Subject to this Division, where a charge to which this Section applies is created by a corporation there shall be lodged with the Registrar for filing within 42 days after the creation of the charge a statement of the prescribed particulars and:

(a) the instrument, if any, by which the charge is created or evidenced; or

(b) a copy together with a statutory declaration certifying the execution of the charge and also verifying the copy as being a true copy of the instrument,

and if this Section is not complied with in relation to the charge, the charge

shall, so far as any security on the corporation's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the corporation.

(2) Nothing in subsection (1) shall prejudice any contract or obligation for repayment of the monies secured by a charge and, when a charge becomes void under this Section, the monies secured thereby shall immediately become payable.

(3) The charges to which this section applies are all charges whether fixed or floating on any asset of a corporation other than a charge already registered on some other public register kept in Naoero under the written laws of the Republic.

[subs (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) Where a charge created in the Republic, affects property outside the Republic, the instrument creating or purporting to create a charge or a copy accompanied by the verifying statutory declaration may be lodged for filing under and in accordance with subsection (1), notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the place in which the property is situated.

(5) When 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 equally is created by a corporation, it shall be sufficient if there is lodged with the Registrar within 42 days after the execution of the instrument creating the charge, or, if there is no such instrument, after the execution of the first debentures of the series, a statement containing the following particulars:

(a) the total amount secured by the whole series;

(b) the date of the resolutions authorising the issue of the series and the date of the covering instrument, if any, by which the security is created or defined;

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

(d) the names of the trustees, if any, for the debenture holders,

together with:

(i) the instrument creating the charge; or

(ii) a copy of the instrument and a statutory declaration verifying the execution of the instrument and verifying the copy to be a true copy.

(6) For the purposes of subsection (5) where more than one issue is made of debentures in the series, there shall be lodged with the Registrar within 42 days after each issue particulars of the date and amount of each issue, but an omission so to do shall not affect the validity of the debentures issued.

(7) Where a charge requiring registration under this Section is created before the lapse of 42 days after the creation of a prior unregistered charge, and comprises all or any part of the property comprised in the prior charge, and the subsequent charge is given as a security for the same debt as is secured by the prior charge, or any part of the debt, then to the extent to which the subsequent charge is a security for the same debt or part of it, and so far as respects the property comprised in the prior charge, the subsequent charge shall not be operative or have any validity unless it is proved to the satisfaction of the Registrar that it was given in good faith for the purpose

of correcting some material error in the prior charge or under other proper circumstances and not for the purpose of avoiding or evading the provisions of this Division.

92 Duty to file charges

(1) Documents and particulars required to be lodged for filing in accordance with Section 91 may be lodged on behalf of the corporation concerned or on behalf of a person interested in the documents but, if default is made in complying with that Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

(2) Where filing is effected on behalf of some person other than the corporation, that person shall be entitled to recover from the corporation the amount of any fees properly paid by him or her on the lodging for filing.

93 Filing of pre-existing charges

(1) Where a corporation acquires any property which is subject to a charge of any such kind as would, if it had been created by the corporation after the acquisition of the property, have been required to be filed under this Division, or where a foreign corporation or a company incorporated in the Republic prior to the commencement of this Act becomes registered in the Republic under this Act and has prior to such registration created a charge which, if it had been created by the corporation or a company while it was registered in the Republic under this Act would have been required to be filed under this Division, or where a foreign corporation or a company incorporated in the Republic prior to the commencement of this Act becomes registered in the Republic under this Act and has prior to such registration acquired property which is subject to a charge of any such kind as would if it had been created by the corporation or company after the acquisition and while it was registered in the Republic under this Act have been required to be filed under this Division, the corporation or company shall cause a statement of the prescribed particulars and the instrument by which the charge was created or is evidenced or a copy accompanied by a statutory declaration containing such particulars as are prescribed and, where a copy is lodged, also verifying it as a true copy to be lodged with the Registrar for filing within 42 days after the date on which the acquisition is completed or the date of the registration of the corporation or company in the Republic, as the case may be.

(2) Where default is made in complying with this Section, the corporation, the foreign corporation or the company and every officer of the corporation, the foreign corporation or the company who is in default is guilty of an offence.

94 Register of charges to be kept by Registrar

(1) The Registrar shall keep a register of all the charges lodged for filing under this Division and shall enter in the register with respect to those 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 required to be contained in a statement furnished under Section 91(5); and

(b) in the case of any other charge:

(i) if the charge is a charge created by the corporation, the date of its creation and, if the charge was a charge existing on property acquired by the corporation, the date of the acquisition of the property;
(ii) the amount secured by the charge;
(iii) a description sufficient to identify the property charged; and
(iv) the name of the person entitled to the charge.

(2) The Registrar shall issue a certificate of every charge filed stating, if applicable, the amount secured by the charge and the certificate shall be conclusive evidence that the requirements as to filing have been complied with.

95 Endorsement of certificate of registration on debentures

(1) The corporation shall cause to be endorsed on every debenture forming one of a series of debentures, or certificate of debenture stock which is issued by the corporation and the payment of which is secured by a charge so registered:
(a) a copy of the certificate of filing; or
(b) a statement that filing has been effected and the date of filing.

(2) Subsection (1) shall not apply to any debenture or certificate of debenture stock issued by the corporation before the charge was filed.

(3) Every person who knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which is not endorsed as required by this Section is guilty of an offence.

96 Filing of satisfaction and release of property from charge

(1) Where, with respect to any registered charge:
(a) the debt for which the charge was given has been paid or satisfied in whole or in part; or
(b) the property or undertaking charged or any part has been released from the charge or has ceased to form part of the corporation's property or undertaking,

the corporation may lodge with the Registrar in the prescribed form a memorandum of satisfaction in whole or in part or of the fact that the property or undertaking or any part has been released from the charge or has ceased to form part of the corporation's property or undertaking, as the case may be, and the Registrar shall file such memorandum and shall enter particulars of same in the register.

(2) The memorandum shall be supported by evidence sufficient to satisfy the Registrar of the payment, satisfaction, release or ceasing referred to in subsection (1).

97 Extension of time and rectification of register of charges

The Registrar, on being satisfied that the omission to file a charge within the time required or that the omission or misstatement of any particular with respect to any such charge 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 or that, on other grounds, it is just and equitable to grant relief, may, on application lodged by the corporation or a

person interested and on such terms and conditions as seem to the Registrar just and expedient, order that the time for filing be extended or that the omission or misstatement be rectified.

98 Trading corporations to keep copies of charging instruments and register of charges

(1) Every trading corporation shall cause a copy of every instrument creating any charge requiring to be filed under this Division to be kept at the registered office of the trading corporation, but in the case of a series of debentures the keeping of a copy of one debenture of the series shall be sufficient for the purposes of this subsection.

(2) Every trading corporation shall keep at the registered office of the corporation a register of charges and enter therein all charges specifically affecting property of the trading corporation and all floating charges on the undertaking or any property of the trading corporation, giving in each case a short description of the property charged and the amount of the charge.

[subs (2) subst Act 21 of 2016 s 17, opn 12 May 2016]

(3) The copies of instruments and the register of charges kept in pursuance of this Section shall be open to the inspection of any creditor or member of the trading corporation 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 $1 for each inspection as is fixed by the trading corporation.

(4) Where default is made in complying with any of the provisions of this Section, the trading corporation, and every officer of the trading corporation who is in default is guilty of an offence.

99 Documents made outside the Republic

Where under this Division an instrument, deed, statement or other document is required to be lodged with the Registrar within a specified time, the time so specified shall, by force of this Section, in relation to an instrument, deed, statement or other document executed or made in a place outside the Republic, be extended by 21 days or such further period as the Registrar may from time to time allow.

100 Application of Division

A reference in this Division to a corporation shall be read as including a reference to a foreign corporation to which Part 10 applies, but nothing in this Division applies to a charge on property outside the Republic of a foreign corporation.

[s 100 am GN No 247/1972 item (f), opn 21 Aug 1972]

[The next page is 31,701]

PART 5 — MANAGEMENT AND ADMINISTRATION

DIVISION 1 — OFFICE AND NAME

101 Registered office of corporation

(1) Every corporation shall have a registered office in the Republic and the name of the corporation shall be displayed outside the place where the registered office is situated and such office shall be open to the public for at least 2 hours each day between the hours of 8.00 a.m. and 5.00 p.m. Monday to Friday except upon a day which is a public holiday in Naoero.

[subs (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) [subs (2) rep Act 38 of 2018 s 23, opn 15 Jan 2019]

(3) Where default is made in complying with subsection (1), the corporation and every officer of the corporation who is in default is guilty of an offence.

(4) Notice in the prescribed form of the situation of the registered office and of any change therein shall be lodged with the Registrar within one month after the date of incorporation or of any such change as the case may be.

102 Publication of name

(1) The name of a corporation shall appear in legible characters on:

(a) its seal; and

(b) all business letters, statements of account, invoices, official notices, publications, bills of exchange, promissory notes, endorsements, cheques, orders, receipts and letters of credit of or purporting to be issued or signed by or on behalf of the corporation,

and, if default is made in complying with this subsection, the corporation is guilty of an offence.

(2) Where an officer of a corporation or a person on its behalf:

(a) uses or authorises the use of any seal purporting to be a seal of the corporation whereon its name does not so appear;

(b) issues or authorises the issue of any business letter, statement of account, invoice or official notice or publication of the corporation wherein its name is not so mentioned; or

(c) signs, issues or authorises to be signed or issued, on behalf of the corporation, any bill of exchange, promissory note, cheque or other negotiable instrument or any endorsement, order, receipt or letter of credit wherein its name is not so mentioned,

he or she shall be guilty of an offence and, where he or she has signed, issued or authorised to be signed or issued on behalf of the corporation any bill of exchange, promissory note or other negotiable instrument or any endorsement thereon or order wherein that name is not so mentioned, he or she shall in addition be personally liable to the holder of the instrument or order for the amount due thereon unless it is paid by the corporation.

DIVISION 2 — DIRECTORS AND OFFICERS

103 Directors

(1) Every trading corporation shall have at least 2 directors, at least one of whom shall not be a registered director, and every holding corporation at

least one director and any casual vacancy in the directors may, so far as the articles do not otherwise provide, be filled by a person appointed by the continuing director or directors or, if there be none, by the Registrar on a request being lodged by any member.

(2) A director may be a corporation which may act by itself or through a nominee appointed in writing but a corporation shall not be appointed or act as a director of more than one other corporation unless it has been appointed to be a registered director under subsection (12).

(3) The fees of a registered director shall be fixed by agreement between the registered director and the corporation of which he or she is a director.

(4) A registered director shall not be subject to retirement but his or her office shall be vacated if:

(a) being a natural person, he or she dies or, being a corporation, it is wound-up otherwise than for the purposes of reconstruction;

(b) being a natural person, he or she becomes bankrupt or insolvent in the Republic or elsewhere;

(c) being a natural person, he or she becomes of unsound mind or otherwise permanently incapable of carrying on his or her duties;

(d) being a natural person or a corporation, he or she, or it, is removed by the Registrar upon the request in writing of 75 percent of the members of the corporation;

(e) being a natural person or a corporation, he or she, or it, resigns; or

(f) being a natural person or a corporation, he or she, or it, is removed as a director in accordance with the articles.

(5) A registered director shall be entitled to vote upon the resolutions of the board without disclosing his or her interest as director of other corporations.

(6) Notice received by a registered director of a corporation shall not be deemed notice to that corporation unless it is given to such registered director specifically as notice to that corporation.

(7) A registered director shall not disclose or use information he or she has obtained by reason of his or her office to a person or for any purpose other than in accordance with his or her duty as a director of the corporation except so far as he or she may be compelled by law so to do:

Provided that the registered director may disclose to an appropriate public officer in Naoero or otherwise make use within Naoero only of information coming to his or her knowledge which he or she honestly believes suggests that a fraud is being or is likely to be practised by the corporation or by any of its members or directors or upon the corporation or any of its members.

[subs (7) am Act 21 of 2026 s 5, opn 12 May 2026]

(8) The provisions hereinbefore enacted relating to the disclosure by a registered director shall *mutatis mutandis* apply to and bind all officers, servants, employees, agents and members of a registered director.

(9) A person acting in contravention of the provisions of this Act relating to disclosure by a registered director shall be guilty of an offence against this Act.

(10) The fees of a registered director payable by a corporation shall be paid to him or her in the Republic in such manner and at such times as shall be

agreed between him or her and the corporation and shall be a charge upon the assets of the corporation ranking in priority next after fees owing by the corporation to the Registrar.

(11) Notwithstanding any other provision of this Act or of the Regulations to the contrary, a registered director shall not be liable as an officer of the corporation for any penalty provided for in this Act nor for anything done or omitted by him or her in the carrying out of his or her office nor for any damage caused to or suffered by a person or corporation howsoever arising otherwise than by reason of his or her wilful misconduct, his or her wilful default or his or her wilful neglect.

(12) The Minister shall by notice in the Gazette appoint such persons or corporations as he or she thinks fit to be registered directors under this Act and the Registrar shall keep a register of the names and addresses of such appointees.

104 Restrictions on naming

A person shall not be named as a director or proposed director in the articles of a corporation or in a prospectus, unless before the registration of the articles or the issue of the prospectus he or she has by himself or herself or by his or her agent authorised in writing for the purpose signed and caused to be lodged with the Registrar a consent in writing to act as a director.

105 Qualification of director

(1) Every director who is by the articles required to hold a specified share qualification and who is not already qualified, shall obtain his or her qualification within 2 months after his or her appointment or such shorter period as is fixed by the articles.

(2) Unless otherwise provided by the articles, the qualification of any director of a corporation shall be held by him or her solely and not as one of several joint holders.

(3) A registered director shall not be required to hold qualification shares notwithstanding anything contained in the articles.

(4) A director shall vacate his or her office if he or she has not within the period referred to in subsection (1) obtained his or her qualification or if after so obtaining it he or she ceases at any time to hold his or her qualification.

(5) A person vacating office under this Section shall be incapable of being re-appointed as director until he or she has obtained his or her qualification.

106 Validity of acts of directors and officers

The act of a director or manager or secretary shall be valid notwithstanding any defect that may be discovered in his or her appointment or qualification.

107 Power to restrain certain persons from managing corporations

(1) The Minister may by notice in the Gazette order that a person by reason that in Naoero or elsewhere:

(a) he or she has committed an offence in connection with the promotion, formation or management of a corporation or company;

(b) he or she has committed any acts involving fraud or dishonesty; or

(c) he or she is an undischarged bankrupt or insolvent,

be disqualified from acting as a director or promoter of, or being in any way directly or indirectly concerned with, or taking part in the management of, a corporation.

[subs (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) A corporation shall not thereafter be entitled to appoint or retain a person so disqualified as a director and a person so disqualified who acts within the period stated in the proclamation without the leave of the Minister first had and obtained as a director or promoter of, or is in any way, whether directly or indirectly, concerned or takes part in the management of, a corporation shall be guilty of an offence.

108 Disclosure of interests in contracts, property, offices, etc

(1) Subject to this Section, every director of a trading corporation and, if the articles of any holding corporation so require, every director of that holding corporation who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the corporation shall, as soon as practicable after the relevant facts have come to his or her knowledge, declare the nature of his or her interest at a meeting of the directors of the corporation or cause to be circulated in writing to all the other directors particulars of his or her interest.

(2) The requirements of subsection (1) shall not apply in any case where the interest of the director consists only of being a member or creditor of a corporation which is interested in a contract or proposed contract with the first-mentioned trading corporation if the interest of the director may properly be regarded as not being a material interest.

(3) For the purposes of this Section, a registered director shall be deemed to be interested in all contracts or proposed contracts with any corporation of which he or she is a director and to have given notice to all the other directors and to have declared the nature of his or her interest and to have given particulars in accordance with the provisions of subsection (1).

(4) A director of a corporation shall not be taken to be interested, or to have been at any time interested, in any contract or proposed contract by reason only:

(a) in a case where the contract or proposed contract relates to any loan to the corporation, that he or she has guaranteed or joined in guaranteeing the repayment of the loan or any part of the loan; or

(b) in a case where the contract or proposed contract has been or will be made with, for the benefit of, or on behalf of a corporation which by virtue of the provisions of Section 4 is deemed to be related to the corporation, that he or she is a director of that corporation,

but this subsection shall not affect the operation of any provision in the articles of the corporation.

(5) For the purposes of subsection (1), a general notice given to the directors of a corporation by a director to the effect that he or she is an officer or a member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made but no such notice shall be of effect unless either it is given at a meeting of the

directors or the director takes reasonable steps to ensure it is brought up and read at the next meeting of the directors after it is given.

(6) Every director of a trading corporation and, if the articles of any holding corporation so require, every director of that holding corporation who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director shall declare at a meeting of the directors of the corporation or cause to be circulated in writing to the other directors the fact and the nature, character and extent of the conflict but the provisions of this subsection shall not apply to a registered director.

(7) The declaration shall be made at the first meeting of the directors held:
(a) after he or she becomes a director; or
(b) if already a director, after he or she commences to hold the office or to possess the property, as the case requires,
whether or not it has been already circulated in writing.

(8) Every declaration under this Section shall be recorded in the minutes of the meeting at which it was made.

(9) Except as provided in subsection (3), this Section shall be in addition to and not in derogation of the operation of any rule of law or any provision in the articles restricting a director from having any interest in contracts with the corporation or from holding offices or possessing properties involving duties or interests in conflict with his or her duties or interests as a director, but registered directors, whether of a trading or holding corporation, are hereby excluded from the operation.

(10) Subject to the provisions of Section 109(2), a registered director shall not be restricted by any rule of law from having any interest in contracts with a corporation of which he or she is a director or from holding office or acquiring and possessing properties or rights involving duties or interests in conflict with his or her duties or interests as a director.

109 Duty and liability of officers

(1) A director shall at all times act honestly and use reasonable diligence in the discharge of the duties of his or her office.

(2) An officer of a corporation shall not make use of any information acquired by virtue of his or her position as an officer to gain directly or indirectly an improper advantage for himself or herself or to cause detriment to the corporation.

(3) An officer who commits a breach of any of the provisions of this Section is:
(a) liable to the corporation for any profit made by him or her and for any damage suffered by the corporation as a result of the breach of any of those provisions; and
(b) guilty of an offence.

(4) Unless the articles of the corporation otherwise provide, a trading corporation shall not save as may be sanctioned by a general meeting or by a resolution in writing signed by or on behalf of members holding together shares conferring more than half of the total voting power of the issued shares:
(a) make a loan to a director of the corporation or of a corporation which by virtue of Section 4(5) is deemed to be related to that corporation or

enter into any guarantee or provide any security in connection with any loan made to such a director by any other person;

(b) make to any director any payment by way of compensation for loss of office as a director of that corporation or of a subsidiary of that corporation or as consideration for or in connection with his or her retirement from any such office; or

(c) make any payment to any director of a corporation in connection with the transfer of the whole or any part of the undertaking or property of the corporation:

Provided that the restrictions of this subsection shall not apply to any *bona fide* payment:

(i) by way of damages for breach of contract or any compromise for any claim for damages for breach of contract; or

(ii) by way of pension, superannuation or retiring allowance or any other payment pursuant to agreement particulars whereof have been disclosed to the corporation in general meeting or pursuant to an agreement made between the corporation and the director before he or she became a director of the corporation and under the terms of which he or she agreed to be a director of the corporation,

and provided further that no director shall be personally liable in respect of any payment made in breach of the provisions of this Section otherwise than as a result of his or her own wilful misconduct, wilful default or wilful neglect.

(5) This Section is in addition to and not in derogation of any other rule of law relating to the duty or liability of directors or officers of a corporation.

110 Secretary

(1) [subs (1) rep Act 38 of 2018 s 24, opn 15 Jan 2019]

(2) [subs (2) rep Act 38 of 2018 s 24, opn 15 Jan 2019]

(3) Every corporation shall have one or more secretaries.

[subs (3) am Act 38 of 2018 s 24, opn 15 Jan 2019]

(4) The secretary shall be responsible for the compliance by the corporation with the requirements of this Act in relation to the lodging of all documents with the Registrar, the maintenance of the corporation's records at the registered office and the opening of the registered office to the public and dealing with communications addressed to the corporation at its registered office:

Provided that notwithstanding any other provisions of this Act to the contrary the secretary shall not be liable as an officer of the corporation for any penalty provided for in this Act save for anything done or omitted by him or her in the carrying out of his or her office nor for any damage caused to or suffered by a person or corporation howsoever arising otherwise than by reason of his or her wilful misconduct, wilful default or wilful neglect.

[subs (4) am Act 38 of 2018 s 24, opn 15 Jan 2019]

(4A) The secretary shall be responsible for retaining for 7 years all accounts information and underlying documents required under Section 134, after a corporation has been wound-up in accordance with this Act and failure to so do constitutes an offence under this Act.

[subs (4A) insrt Act 38 of 2018 s 24, opn 15 Jan 2019]

(5) [subs (5) rep Act 38 of 2018 s 24, opn 15 Jan 2019]

(6) The corporation shall forthwith pay any costs, charges and expenses incurred on its behalf by the secretary in respect of any matters required or permitted by him or her to be done under this Act.

[subs (6) am Act 38 of 2018 s 24, opn 15 Jan 2019]

(7) [subs (7) rep Act 38 of 2018 s 24, opn 15 Jan 2019]

(8) Every secretary of a corporation shall be appointed by the directors.

(9) Where the secretary of any corporation has reasonable cause to believe that a fraud is being or might be practised by the corporation or by any of its members or directors, he or she shall be entitled to report thereon to the Registrar.

[subs (9) am Act 38 of 2018 s 24, opn 15 Jan 2019]

111 Register of directors and secretaries

(1) Every corporation shall keep at its registered office a register of its directors, registered directors and secretaries.

(2) The register shall contain with respect to each director and registered director:

(a) in the case of an individual, his or her present surname and any former surname and his or her present other names and any former other names and his or her usual residential address; or

(b) in the case of a corporation, its corporate name and the address of its registered office.

(3) The register shall contain with respect to each secretary:

(a) in the case of an individual, his or her present surname and any former surname and his or her present other names and any former other names and his or her usual residential address; or

(b) in the case of a corporation, its corporate name and the address of its registered office.

(4) The register shall be open to the inspection of any director, member and auditor of the corporation without charge.

(5) The corporation shall lodge with the Registrar:

(a) within one month after incorporation a return in the prescribed form containing in relation to its directors, registered directors and secretaries the particulars set out in subsections (2) and (3);

(b) within one month after a person named in a return ceases to be a director, a registered director or secretary of the corporation, a return in the prescribed form notifying the Registrar of the change and containing with respect to each then director, registered director and secretary of the corporation the particulars set out in subsections (2) and (3) and the date of cessation; and

(c) within one month after a person becomes a director, registered director or a secretary of the corporation, a return in the prescribed form notifying the Registrar of that fact and containing the particulars set out in subsections (2) and (3) and the date of appointment.

(6) Where default is made in complying with any provision of this Section, the corporation and every officer of the corporation who is knowingly in default is guilty of an offence.

(7) A certificate of the Registrar stating that from any return lodged with the

Registrar pursuant to this Section it appears that at any time specified in the certificate a person was a director, manager or secretary of a specified corporation shall, in all courts and by all persons having power to take evidence for the purposes of this Act, be received as *prima facie* evidence of the facts stated therein and for the purposes of this subsection a person who appears from any return so lodged to be a director, manager or secretary of a company shall be deemed to continue as such until by a subsequent return so lodged or by a notification of change in the prescribed form so lodged it appears that he or she has ceased to be such a director, manager or secretary.

[The next page is 31,901]

112 Annual general meeting of trading corporation

(1) A general meeting of every trading corporation to be called the "annual general meeting" shall, in addition to any other meeting, be held at least once in every calendar year and not more than 15 months after the holding of the last preceding annual general meeting, but so long as a corporation holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

(2) Notwithstanding the provisions of subsection (1), the Registrar on the lodging of an application by the corporation may, if for any special reason he or she thinks fit so to do, extend the period of 15 months or 18 months referred to in that subsection, notwithstanding that such period is so extended beyond the calendar year.

(3) Where default is made in holding an annual general meeting:

(a) the trading corporation and every officer of the trading corporation in default is guilty of an offence; and

(b) the Registrar may on the application of any member order a general meeting of the trading corporation to be called.

113 Convening of extraordinary general meetings on requisition

(1) The directors of a corporation, notwithstanding anything in its articles, shall on the requisition of members holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital as at the date of the deposit carries the right of voting at general meetings forthwith proceed to convene an extraordinary general meeting of the corporation to be held as soon as practicable, but in any case not later than 2 months after the receipt by the corporation of the requisition.

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

(3) Where the directors do not within 21 days after the date of the deposit of the requisition proceed to convene a meeting, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by directors, convene a meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date of deposit of the requisition.

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

(5) A meeting at which a special resolution is to be proposed shall be deemed not to be duly convened by the directors if they do not give such notice as is required by this Act in the case of special resolutions.

114 Calling of meetings

(1) So far as the articles do not make other provision in that behalf, 2 or more members holding not less than one tenth of the issued share capital may call a meeting of the corporation.

(2) A meeting of a corporation or of a class of members, other than a meeting for the passing of a special resolution, shall be called by notice in writing of not less than 14 days or such longer period as is provided in the articles.

(3) A meeting shall, notwithstanding that it is called by notice shorter than is required by subsection (2), be deemed to be duly called if it is so agreed:
- (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote; or
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote, being a majority which together holds not less than 95 per centum in nominal value of the shares giving a right to attend and vote.

(4) So far as the articles do not make other provision in that behalf, notice of every meeting shall be served on every member having a right to attend and vote in the manner in which notices are required to be served by Table A in the case of a trading corporation and by Table B in the case of a holding corporation.

(5) 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 proceedings at a meeting.

115 Articles as to right to demand a poll

(1) Any provision contained in a corporation's articles shall be void in so far as it would have the effect:
- (a) of excluding the right to demand a poll at a general meeting on any question or matter other than the election of the chairperson of the meeting or the adjournment of the meeting;
- (b) of making ineffective a demand for a poll on any question or matter other than the election of the chairperson of the meeting or the adjournment of the meeting that is made:
  - (i) by not less than 5 members having the right to vote at the meeting;
  - (ii) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
  - (iii) by a member or members holding shares in the corporation conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right; or
- (c) of requiring the instrument appointing a proxy or any other document necessary to show the validity of, or otherwise relating to, the appointment of a proxy to be received by the corporation or any other person more than 6 days before a meeting or adjourned meeting in order that the appointment may be effective.

(2) The instrument appointing a proxy to vote at a meeting of a corporation shall be deemed to confer authority to demand or join in demanding a poll

and for the purposes of subsection (1), a demand by a person as proxy for a member of the corporation shall be deemed to be the same as a demand by the member.

116 Quorum, chairperson, voting, etc at meetings

(1) So far as the articles do not make other provisions in that behalf:
(a) in the case of a holding corporation one member of the corporation, and in the case of a trading corporation, 2 members, personally present shall be a quorum;
(b) any member elected by the members present at a meeting may be chairperson; and
(c) every member shall have one vote in respect of each share held by him or her.

(2) On a poll taken at a meeting a person entitled to more than one vote need not, if he or she votes, use all his or her votes or cast all the votes he or she uses in the same way.

(3) A corporation may by resolution of its directors or other governing body:
(a) if it is a member of a corporation, authorise such person as it thinks fit to act as its representative either at a particular meeting or at all meetings of the corporation or of any class of members; or
(b) if it is a creditor, including a holder of debentures, of a corporation, authorise such person as it thinks fit to act as its representative either at a particular meeting or at all meetings of any creditors of the corporation,

and a person so authorised shall, in accordance with his or her authority and until his or her authority is revoked by the corporation, be entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member, creditor or holder of debentures of the corporation.

(4) Where:
(a) a person present at a meeting is authorised to act as the representative of a corporation at the meeting by virtue of an authority given by the corporation under subsection (3); and
(b) the person is not otherwise entitled to be present at the meeting,

the corporation shall, for the purposes of subsection (1), be deemed to be personally present at the meeting.

(5) A certificate under the seal of the corporation shall be *prima facie* evidence of the appointment or of the revocation of the appointment, as the case may be, of a representative pursuant to the provisions of subsection (3).

117 Proxies

(1) Subject to subsection (2), a member, of a corporation entitled to attend and vote at a meeting of the corporation, or at a meeting of any class of members of the corporation, shall be entitled to appoint another person, whether a member or not, as his or her proxy to attend and vote instead of the member at a meeting and a proxy appointed to attend and vote instead of a member shall have the same right as the member to speak at the meeting.

(2) A member of a holding corporation shall not be entitled to appoint another person as his or her proxy under subsection (1), except:
(a) in accordance with the articles of the corporation; or
(b) with the leave of the Registrar.

(3) In every notice calling a meeting of a trading corporation or a meeting of any class of members of a trading corporation, there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of the member, and that a proxy need not also be a member and, if default is made in complying with this subsection as respects any meeting, every officer of the corporation who is in default shall be guilty of an offence against this Act.

(4) A person who authorises or permits an invitation to appoint as proxy a person or one of a number of persons specified in the invitation to be issued at the corporation's expense to some only of the members entitled to be sent a notice of the meeting and to vote by proxy is guilty of an offence.

(5) No person shall be guilty of an offence under subsection (4) by reason only of the issue to a member at his or her request of a form of appointment naming the proxy or a list of persons willing to act as proxies if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(6) Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period not exceeding 10 years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office and by lodging their shares with such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

(7) Any trustee corporation may notify the Registrar in writing that it is willing to be appointed as trustee of a voting trust and the Registrar upon payment of the prescribed fee may supply to a person a list of trustee corporations which have so notified him or her.

(8) Where a voting trust has been created in respect of any of the shares of a corporation, that corporation shall, so long as such voting trust continues, upon request of any member supply that member with the name and address of the trustee of such voting trust.

118 Power of Registrar to order meeting

(1) Where for any reason it is impracticable to call a meeting in any manner in which meetings may be called or to conduct the meeting in the manner prescribed by the articles or this Act, the Registrar may, either of his or her own motion, or on an application lodged on behalf of any director or of any member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the Registrar thinks fit, and

may give such ancillary or consequential directions as he or she thinks expedient, including a direction that one member present in person or by proxy shall be deemed to constitute a meeting of a trading corporation.

(2) Any meeting called, held and conducted in accordance with any order made pursuant to this Section shall, for all purposes, be deemed to be a meeting duly called, held and conducted.

119 Circulation of members' resolutions, etc

(1) Subject to this Section, a corporation shall on the requisition in writing of such number of members of the corporation as is specified in subsection (2) and, unless the trading corporation otherwise resolves, at the expense of the requisitionists:

(a) give to the members of the trading corporation entitled to have notice of any general meeting sent to them notice of any resolution which may properly be moved and which it is intended will be moved at that meeting; and

(b) circulate to members entitled to have notice of any general meeting of the trading corporation sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution of the business to be dealt with at that meeting.

(c) [repealed]

[subs (1) am Act 21 of 2016 s 18, opn 12 May 2016]

(2) The number of members necessary for a requisition under subsection (1), shall be:

(a) any number of members representing not less than one twentieth of the total voting rights of all the members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or

(b) in the case of a trading corporation, not less than 100 members holding shares in the corporation on which there has been paid up an average sum per member of not less than $1.

(3) Notice of a resolution referred to in subsection (1) shall be given, and any statement so referred to shall be circulated, to members of the corporation entitled to have notice of the meeting sent to them by serving a copy of the resolution or statement on each member in any manner permitted for service of notices of the meeting.

(4) A corporation shall not be bound under this Section to give notice of any resolution or to circulate any statement unless:

(a) a copy of the requisition signed by the requisitionists or 2 or more copies which between them contain the signatures of all the requisitionists is deposited at the registered office of the corporation not less than 6 weeks before the meeting; and

(b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto,

but if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the corporation, an annual general meeting is called for a date 6 weeks or less after the copy has been deposited, the copy though not deposited within the time required by this subsection shall be deemed to have been properly deposited for the purposes.

(5) The corporation shall not be bound under this Section to circulate any statement if, on an application on behalf of the corporation or of any other person who claims to be aggrieved lodged with him or her, the Registrar is satisfied that the rights conferred by this Section are being abused to secure needless publicity for defamatory matter and the Registrar may make such order as to the corporation's costs and expenses of and incidental to an application in accordance with this Section as he or she thinks fit.

(6) Notwithstanding anything in the corporation's articles, the business which may be dealt with at an annual general meeting shall include any resolution of which notice is given in accordance with this Section, and for the purposes of this subsection notice shall be deemed to have been so given notwithstanding the accidental failure to give it to one or more members.

(7) In the event of any default in complying with the provisions of this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

120 Special resolutions

(1) A resolution shall be a special 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 not less than 21 days' notice specifying the intention to propose the resolution as a special resolution has been duly given.

(2) Notwithstanding the provision of subsection (1), if it so agreed by a majority in number of the members having the right to attend and vote at the meeting, being a majority which together holds not less than 95 per centum in nominal value of the shares giving that right, a resolution may be proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given.

(3) At any meeting at which a special resolution is submitted, a declaration of the chairperson 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 a special resolution is submitted, a poll shall be deemed 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 is specified in the articles, but it shall not in any case be necessary for more than 5 members to make the demand; or

(b) if no such provision is made by the articles, by 3 members so entitled, or by one member or 2 members so entitled, if that member holds or those 2 members together hold not less than 10 per centum of the paid up share capital of the corporation.

(5) In computing the majority on a poll demanded on the question that a special resolution be passed, reference shall be had to the number of votes cast for and against the resolution and to the number of votes to which each member is entitled by this Act or the articles of the corporation.

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

(7) Where the articles of a corporation so provide, a resolution in writing signed by not less than three-fourths of such members as are entitled to vote shall be deemed to be and shall be as valid as a special resolution as one passed at a general meeting in accordance with the provisions of subsection (1).

121 Resolution requiring special notice

Where by this Act special notice is required of the intention to move a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the corporation not less than 42 days before the meeting at which it is moved, and the corporation shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice in any manner allowed by the articles not less than 14 days before the meeting but, if after notice of the intention to move such resolution has been given to the corporation a meeting is called for a date 42 days or less after the notice has been given, the notice, although not given to the corporation within the time required by this Section, shall be deemed to be properly given.

122 Filing of copies of certain resolutions and agreements

(1) A printed copy of every resolution or agreement to which this Section applies shall, within 15 days after the passing or making, be forwarded to the Registrar and recorded by him or her.

(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 copy of every such resolution or agreement shall be forwarded to any member at his or her request on payment of 50 cents or such less sum as the corporation may direct.

(4) This Section shall apply to:
   (a) special resolutions;
   (b) resolutions which have been agreed to by all the members of a corporation, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions; and
   (c) 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.

(5) Where a corporation fails to comply with subsection (1), the corporation and every officer of the corporation who is in default shall be guilty of an offence.

(6) Where a corporation fails to comply with subsection (2) or (3), the corporation and every officer of the corporation who is in default shall be guilty of an offence in respect of each copy in respect of which default is made.

(7) For the purposes of subsections (5) and 6, a liquidator of the corporation shall be deemed to be an officer of the corporation.

123 Resolutions at adjourned meetings

Where a resolution is passed at an adjourned meeting of a corporation or of holders of any class of shares or of directors, the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed and not on any earlier date.

124 Minutes of proceedings

(1) Every corporation shall cause:
  (a) minutes of all proceedings of general meetings and of proceedings of its directors to be entered in books kept for that purpose; and
  (b) those minutes to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting or by one of the directors who were parties to the proceedings.

(2) Any minute so entered that purports to be signed as provided in subsection (1), shall be evidence of the proceedings to which it relates.

(3) Unless the Registrar otherwise directs, all such minute books shall be kept at the registered office of the corporation but duplicates of the minute books or any of them may be kept elsewhere.

(4) Where minutes have been so entered and signed, then until the contrary is proved:
  (a) the meeting shall be deemed to have been duly held and convened;
  (b) all proceedings shall be deemed to have been duly had; and
  (c) all appointments of officers or liquidators made shall be deemed to be valid.

(5) Where the articles permit a resolution to be passed otherwise than at a meeting if assented to in writing by the persons specified in the articles, the document containing such assent shall be entered in the minute book.

(6) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

125 Inspection of minute book

(1) Unless the Registrar otherwise directs, the books containing the minutes of proceedings of any general meeting shall be kept by the corporation at its registered office and shall be open for inspection by any member without charge.

(2) A member shall be entitled to be furnished, within 14 days after he or she has made a request in writing in that behalf to the corporation, with a copy of any minute of proceedings at a general meeting at a charge not exceeding $1 for every 200 words or part of it.

(3) Where any copy required under this Section is not so furnished, the corporation and every officer of the corporation who is in default is guilty of an offence.

DIVISION 4 — REGISTER OF MEMBERS

126 Register and index of members

(1) Every corporation shall keep a register of its members and enter therein:

(a) the names and addresses of the members, and a statement of the shares held by each member, distinguishing each share by its number, if any, or by the number, if any, of the certificate evidencing the member's holding and of the amount paid or agreed to be considered as paid on the shares of each member;
(b) the date at which the name of each person was entered in the register as a member;
(c) the date at which a person who ceased to be a member during the previous 7 years so ceased to be a member; and
(d) the date of every allotment of shares to members and the number of shares comprised in each allotment.

[subs (1) am Act 21 of 2016 s 19, opn 12 May 2016]

(2) Notwithstanding anything in subsection (1), a corporation may keep the names and particulars relating to persons who have ceased to be members of the corporation separately and the names and particulars relating to former members need not be supplied to a person who applies for a copy of the register unless he or she specifically requests the names and particulars of former members.

(3) The register of members shall be *prima facie* evidence of any matters inserted therein as required or authorised by this Act.

(4) Every trading corporation having more than 50 members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index in convenient form of the names of the members and shall, within 28 days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(5) The index shall, in respect of each member, contain a sufficient indication to enable the account of that member registered to be easily found.

(6) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

127 Where register to be kept

(1) Unless the Registrar otherwise directs, the register of members and index, if any, shall be kept at the registered office of the corporation.

(2) Every corporation shall within 21 days after the register and index, if any, are first kept at a place other than the registered office lodge with the Registrar notice of the place where the register and index, if any, are kept and it shall within 14 days after any change in the place at which the register and index, if any, are kept lodged with the Registrar notice of the change.

128 Inspection and closing of register

(1) A corporation may, on giving not less than 21 days notice by advertisement in such manner as the articles provide or in default of such provision in such manner as the Registrar may approve, close the register of members or any class of members for any time or times, but so that no part of the register shall be closed for more than 30 days in the aggregate in any calendar year.

(2) The register and index shall be open to the inspection of any member without charge and, in the case of a trading corporation, of any other person on payment for each inspection of $1 or such less sum as the corporation requires.

(3) Any member or, in the case of a trading corporation, any member or other person may request the corporation to furnish him or her with a copy of the register, or of any part, but only so far as it relates to names, addresses, number of shares held and amounts paid on shares, on payment in advance of $1 or such less sum as the corporation requires for every 200 words or part required to be copied and the corporation shall cause any copy so requested by a person to be sent to that person within a period of 30 days or within such further period as the Registrar considers reasonable in the circumstances commencing on the day next after the day on which the request is received by the corporation.

(4) Where any copy so requested is not sent within the period prescribed by subsection (3), the corporation and every officer of the corporation who is in default is guilty of an offence.

129 Consequences of default by agent

Where the register of members is kept at some place other than the registered office of the corporation and, by reason of any default of the person in charge of such office, the corporation fails to comply with Section 127 or 128 or any requirements of this Act as to production of the register, that person shall be liable to the same penalties as if he or she were an officer of the corporation who was in default.

130 Power of Registrar to rectify register

(1) Where:

(a) the name of a person is without sufficient cause entered in or omitted from the register; or

(b) default is made or unnecessary delay takes place in entering in the register the fact of a person having ceased to be a member,

the person aggrieved or any member of the corporation may lodge an application with the Registrar for rectification of the register, and the Registrar may refuse the application or may order rectification of the register and payment by the corporation of any damages sustained by any party to the application and may order any party to bear the costs and expenses of and incidental to the application of any other party.

(2) On any application lodged under subsection (1), the Registrar may decide:

(a) any question relating to the title of a person who is a party to the application to have his or her 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 corporation on the other hand; and

(b) generally, any question necessary or expedient to decide for the rectification of the register.

131 Limitation of liability of trustee, etc, registered as owner of shares

(1) Any trustee, executor or administrator of the estate of any deceased person who was registered in a register or branch register kept in the Republic as

the holder of a share in any corporation may become registered as the holder of that share as trustee, executor or administrator of that estate and shall, in respect of that share, be subject to the same liabilities and no more as he or she would have been subject to if the share had remained registered in the name of the deceased person.

(2) Any trustee, executor or administrator of the estate of any deceased person who was equitably entitled to a share in any corporation, being a share registered in a register or branch register kept in the Republic, may with the consent of the corporation and of the registered holder of that share become registered as the holder of that share as trustee, executor or administrator of that estate and shall in respect of the share, be subject to the same liabilities and no more as he or she would have been subject to if the share had been registered in the name of the deceased person.

(3) Shares in a corporation registered in a register or branch register kept in the Republic and held by a trustee in respect of a particular trust may, with the consent of the corporation, be marked in the register or branch register in such a way as to identify them as being held in respect of the trust.

(4) Except as provided in this Section, no notice of any trust express, constructive or implied shall be entered on the register or branch register and no liabilities shall be affected by anything done in pursuance of subsection (1), (2) or (3) and the corporation concerned shall not be affected with notice of any trust by anything so done.

132 Branch registers

(1) A corporation may cause to be kept in any place outside Naoero a branch register of members.

[subs (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The corporation shall lodge with 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 lodged within one month after the opening of the office or of the change or discontinuance, as the case may be.

(3) Whenever any branch register is kept outside the Republic a duplicate copy shall be kept at the registered office of the corporation in the Republic or at such other place within the Republic as the principal register of members is kept and within 7 days of the making of any entry in a branch register a duplicate copy of such part of such branch register as is affected by such entry showing such entry shall be sent to the corporation at its registered office in the Republic and the duplicate copy of the branch register kept within the Republic shall be amended accordingly.

(4) A branch register shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement required before the register is closed shall be inserted in some newspaper circulating generally in the district where the branch register is kept or in such other manner as the Registrar may approve.

(5) Subject to the provisions of this Section with respect to the duplicate register, the shares registered in the branch register may be distinguished from the shares registered in the principal register, and any dealing with a share on a register shall be noted in that register.

(6) (a) The provisions of paragraph (b) shall apply to such corporation and during such period or periods as the Registrar by order declares but not otherwise. Any such order shall only be made upon the application of the corporation. The Registrar may revoke any order made under this paragraph and shall revoke the same upon the application of the corporation. A copy of any order made under this paragraph and of any revocation shall be kept by the corporation at its registered office in the Republic and shall be open to inspection by a person entitled to inspect the register of members.

(b) A duplicate copy of the branch register shall be sent to the corporation at its registered office in the Republic so as to be received there by it not later than the expiry of one calendar month after the opening of the branch register and further duplicate copies shall be sent to the corporation at its registered office in the Republic so as to be received by it thereafter once in each succeeding calendar month and the date of receipt of each such duplicate copy by the corporation at its registered office in the Republic shall be marked on such duplicate copy and such duplicate copy shall be filed by the secretary of the corporation in the corporation's records kept in the Republic. In the event of any one of the duplicate copies of the register required by this subsection to be sent to the corporation at its registered office in the Republic not being received at its registered office in the Republic within the times herein specified, the last duplicate copy of the branch register shall become and be deemed to be part of and shall be included in the principal register in lieu of the branch register kept outside the Republic theretofore and the branch register kept outside the Republic shall thereupon cease to be a register of the corporation and shall be destroyed by the person having custody.

[subs (6) am Act 38 of 2018 s 25, opn 15 Jan 2019]

(7) Where the provisions of subsection (6)(b) apply, the Registrar may upon the application of a corporation and subject to such conditions, if any, as he or she sees fit to impose dispense a corporation from compliance with the whole or any part of the provisions of subsection (6)(b) and the principal register and every branch register of the corporation shall be kept in accordance with such conditions as the Registrar shall impose and shall be noted with the terms of such conditions and such conditions may be varied by the Registrar from time to time on the application of the corporation or of any shareholder, debenture holder or registered director of the corporation. A copy of any dispensation made under this subsection and any variation shall be kept by the corporation at its registered office in the Republic and shall be by a person entitled to inspect the register of members.

(8) A corporation may discontinue a branch register and thereupon all entries in that register shall be transferred to some other branch register kept by the corporation in the same place or to the principal register.

(9) Where by virtue of the law in force in any other country any corporation incorporated under that law keeps in the Republic a branch register of its members, regulations may be made declaring that the provisions of this Act relating to inspection, place of keeping and rectification of registers of members shall, subject to any modification specified in the regulations,

apply to and in relation to any such branch register kept in the Republic as they apply to and in relation to the registers of corporations under this Act and thereupon those provisions shall apply accordingly.

(10) Where default is made in complying with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

DIVISION 5 — ANNUAL RETURN

133 Annual return

(1) Every trading corporation shall make a return, called the ***'annual return'***, containing the prescribed particulars and accompanied by such copies of documents as are required to be included in the return under the regulations, if any, made under this Section and such of the certificates and other particulars prescribed in such regulations as are applicable to the corporation.

(2) Every holding corporation shall make a return, called the ***'annual return'***, containing the prescribed particulars and accompanied by such copies of documents as are required to be included in the return under the regulations, if any, made under this Section and such of the certificates and other particulars prescribed in such regulations as are applicable to the corporation.

(3) The annual return shall be in accordance with the form prescribed by regulation for the purpose or as near thereto as circumstances admit and shall be made up to a date not earlier than the twenty-eighth day before the date of lodgement.

(4) In the case of a corporation 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 annual return, be included in the annual return made next after copies of those entries are received in the registered office of the corporation.

(5) The annual return signed by a director or secretary of the corporation shall be lodged with the Registrar and the prescribed fee payable paid at least once in each calendar year not later than 28 days prior to the anniversary of the date of its incorporation.

(6) Every annual return shall in the case of a holding corporation be accompanied by a certificate from an auditor stating:

(a) that proper accounts of the corporation for the financial period ending on the date specified have been kept and a balance sheet and profit and loss account for that period prepared and audited by such auditor; and

(b) that the director giving the certificate under the provisions of subsection (7) has been furnished with a copy of such accounts,

and the auditor shall retain for 6 years a copy of the accounts to which this certificate relates.

[subs (6) subst Act 38 of 2018 s 26, opn 15 Jan 2019]

(7) Every annual return shall in the case of a holding corporation be accompanied by a certificate from a director stating that he or she has considered the audited accounts mentioned in subsection (6) and certifying, with or without qualifications:

(a) that the same show that the corporation was solvent at the date to which they relate;

(b) that he or she is unaware of any circumstances which render those accounts untrue; and

(c) that no circumstances have occurred since the date to which those accounts relate which would render the corporation insolvent,

if such a certificate cannot be given without qualification, the respect in which it is qualified shall be set out.

(8) Where a corporation fails to comply with this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

[The next page is 32,001]

PART 6 — ACCOUNTS AND AUDIT

DIVISION 1 — ACCOUNTS

134 Accounts to be kept

(1) Every corporation shall cause proper accounts and records to be kept and retained for 7 years, which shall include but is not limited to underlying documentation such as:

(a) all sums of money received and expended by the corporation, specifying items or matters in respect of which the receipt or expenditure took place;

(b) all sales and purchases of goods and services by the corporation;

(c) all assignments of rights or assumption of liabilities by the corporation;

(d) all transactions of the corporation, or affecting the assets and liabilities of the corporation;

(e) the assets and liabilities of the corporation;

(f) bank statements;

(g) statutory taxes, licences, duties and fees;

(h) court proceedings;

(i) invoices;

(j) contracts;

(k) audited financial accounts;

(l) annual return;

(m) details of the current and former shareholders, directors, secretary and corporation officers; and

(n) such other matters prescribed by regulations.

[subs (1) subst Act 38 of 2018 s 27, opn 15 Jan 2019]

(2) The accounts shall be kept at the registered office of the corporation or at such other place as the directors think fit and shall at all times be open to inspection by any director and shall be kept in such manner as to enable them to be conveniently and properly audited.

(3) The Registrar may in any particular case order that the accounting and other records of a corporation be open to inspection by an auditor acting for a director, but only upon an undertaking in writing given to the Registrar that information acquired by the auditor during his or her inspection, shall not be disclosed by him or her except to that director.

[subs (3) am Act 38 of 2018 s 27, opn 15 Jan 2019]

(4) A person who, being a director of a corporation other than a registered director, fails to take all reasonable steps to secure compliance by the corporation with the requirements of this Section, Sections 135 and 136 or, whether a registered director or not, has by his or her own wilful act been the cause of any default by the corporation thereunder is guilty of an offence.

135 Accounts to be laid before meeting or circulated

(1) Every trading corporation shall supply to any of its members who makes written application a copy of the most recent audited profit and loss account and balance sheet together with a copy of the auditor's comments, if any.

(2) At any meeting of any corporation at which any member so requires, the directors shall either lay before the meeting a profit and loss account of the corporation and a balance sheet made up to a date not more than 12 months before the date of the meeting, or shall, at an adjournment of the meeting held not later than 2 months thereafter, lay before such adjourned meeting a profit and loss account and balance sheet made up to the original date of the meeting, or such other more remote date not being more than 12 months before the original date of the meeting as the Registrar upon application lodged with him or her may fix.

(3) In the case of a corporation the articles of which require that a dividend be declared only upon a resolution of members, a member may before the passing of any such resolution:

(a) at a meeting at which he or she is present in person or by proxy; or

(b) by notice in writing served at the registered office of the corporation,

require that a balance sheet and profit and loss account made up to a date not earlier than 2 months before the date of a resolution declaring a dividend be circulated to members and thereupon no such resolution shall be passed until 21 days after circulation.

(4) A balance sheet or profit and loss account of any corporation laid before a meeting or sent to members shall be accompanied by all documents required by this Act to be attached.

136 Regulations as to accounts

Accounts of a corporation shall so far as regulations prescribe:

(a) be prepared in the manner prescribed;

(b) be presented to such meetings as may be prescribed;

(c) be lodged at the times and in the manner prescribed;

(d) be accompanied by such declarations and reports by such persons as may be prescribed;

(e) have attached such annexures, schedules or details as may be prescribed; and

(f) be circulated amongst such persons as are prescribed.

DIVISION 2 — AUDIT

137 Auditor to be appointed

(1) The directors of a corporation shall:

(a) where the corporation is incorporated before this Section comes into force, within 90 days after this Section comes into force; and

(b) where the corporation is incorporated after, or on the date when, this Section comes into force, within 90 days of its incorporation,

appoint an auditor to be the auditor of that corporation and such auditor shall hold office until the expiration of the audit period expiring next after the first annual general meeting of the corporation, if the corporation be a trading corporation, and next after 18 months from the date of incorporation if the corporation be a holding corporation.

[subs (1) am Act 38 of 2018 s 28, opn 15 Jan 2019]

(2) At the conclusion of his or her first term of office the auditor, if willing and eligible, shall be reappointed for a further 2 audit periods.

(3) No person shall be appointed to be, or to act as, the auditor of any corporation without his or her prior written consent.

(4) Every corporation shall, whenever it appoints an auditor, lodge with the Registrar within 30 days of the appointment a notice in the prescribed form accompanied by the auditor's written consent.

138 Appointment and removal of auditors

(1) Subject to the provisions of Section 137, every corporation shall appoint an auditor to be auditor of the corporation for 2 audit periods upon the previous auditor ceasing to hold office.

(2) A corporation may, at a general meeting of which notice has been given to the auditor and the Registrar not less than 28 days before the date of the meeting but not otherwise, remove an auditor from office but shall at the meeting at which the auditor is removed or at a general meeting held within one month thereafter appoint an auditor approved by the Registrar to take the original auditor's place.

(3) Unless the articles otherwise provide, in the case of a trading corporation the auditor for the first audit period shall be appointed by the directors and the auditors for subsequent audit periods shall be appointed by general meetings but in the case of a holding corporation the auditor shall for every audit period be appointed by the directors.

[s 138 am Act 38 of 2018 s 29, opn 15 Jan 2019]

139 Auditor ceasing to be registered

(1) Unless the Registrar otherwise directs, or the directors otherwise resolve, if an auditor ceases to be an auditor he shall continue to hold office as auditor of the corporation until completion of the audit work for the audit period during which he ceased to be an auditor.

[subs (1) am Act 38 of 2018 s 30, opn 15 Jan 2019]

(2) Where an auditor ceases to be an auditor and does not continue in office, as aforesaid, the corporation shall immediately appoint a new auditor.

[subs (2) am Act 38 of 2018 s 30, opn 15 Jan 2019]

(3) For the purposes of subsection (2), it is hereby declared that it is an implied term of the contract between the corporation and its auditor that the auditor shall make available to another auditor taking office either in lieu of or in addition to the first-mentioned auditor during the course of an audit period all working papers relating to the affairs of the corporation made and kept by the first-mentioned auditor during his or her tenure of office.

140 Term of office when auditor ceases to be registered

An auditor appointed in addition to or in place of an auditor ceasing to hold office as a registered corporation auditor, shall hold office during the period for which the auditor so ceasing would have held office had he or she not so ceased.

141 Partners of auditors

Where an auditor is a member of a partnership carrying on the practice of accountants and auditors and one or more members of that partnership is or are the auditors of the corporation, another member of such partnership being an

auditor may, if the directors so resolve, be substituted as auditor of the corporation for the auditor ceasing to be registered with the written consent of the substitute auditor.

[s 141 am Act 38 of 2018 s 31, opn 15 Jan 2019]

142 Remuneration of auditor

(1) The fees and expenses of an auditor of a trading corporation appointed at a general meeting shall be fixed by that meeting or in the manner directed by that meeting and the fees and expenses of an auditor appointed otherwise than by a general meeting shall be fixed by the directors.

(2) The fees and expenses of an auditor of a holding corporation may be fixed by the directors unless the auditor requires such fees and expenses to be fixed by a resolution of the members of the corporation.

143 Auditor may attend meetings

An auditor of a corporation shall be entitled to attend and address all meetings of members of a corporation.

144 Auditor to audit

(1) Every auditor of a corporation shall carry out an audit in respect of it in each audit period.

(2) Every auditor shall report to the members as to his or her audit and matters disclosed thereby and as to every balance sheet and profit and loss account and as to any other accounts put before the members.

(3) Every auditor shall give such further reports and information as are required by regulations made under this Act.

145 Powers of auditors

Every auditor shall obtain such information and explanations in relation to the affairs of the corporation of which he or she is auditor and of any other corporation which by virtue of Section 4(5) is deemed to be a related corporation as he or she reasonably requires to complete his or her audit and the corporation shall take all proper steps to ensure that he or she is able to obtain such information and explanations and to have access to such books and records as he or she requires for his or her audit.

146 Powers, duties and obligations of auditors

The powers, duties and obligations of auditors provided by this Act are in addition to any powers, duties and obligations specified in the articles of the corporation and all auditors shall be entitled to be furnished with a copy of such articles and shall be required to make themselves acquainted with the terms.

[The next page is 32,201]

147 Power to compromise with creditors and members

(1) Where a compromise or arrangement is proposed between a corporation and its creditors, or any class of them or between the corporation and its members or any class of them the Registrar may, on an application being lodged by the corporation or by any creditor or member of the corporation, or, in the case of a corporation being wound-up, by the liquidator, order a meeting of the creditors or a class of creditors or of members of the corporation or a class of members to be summoned in such manner as he or she may direct.

(2) Where a majority in number representing three-fourths in value of the creditors or class of creditors or members or class of members present and voting either in person or by proxy at the meeting agrees to any compromise or arrangement, the compromise or arrangement shall, if approved by order of the Registrar or, in the case of corporations being wound-up compulsorily, by the court, be binding on all the creditors or class of creditors or on all the members or class of members, as the case may be, and also on the corporation or, in the case of a corporation in the course of being wound-up, on the liquidator and contributories of the corporation.

(3) The Registrar or the court, as the case may be, may grant his or her or its approval to a compromise or arrangement subject to such alterations or conditions as is thought fit.

(4) An order under subsection (2), shall have no effect until an office copy of the order is lodged with the Registrar and the prescribed fee paid and, upon being so lodged, the order shall take effect on and from the date of filing of the same or such earlier date as the Registrar may determine and as may be specified in the order.

(5) A copy of any order made under subsection (2), shall be annexed to every copy of the memorandum and articles, if any, of the corporation issued after the order has been made.

(6) Where any such compromise or arrangement, whether or not for the purposes of or in connection with a scheme for the reconstruction of any corporation or corporations or the amalgamation of any 2 or more corporations has been proposed, the directors of the corporation shall:

(a) if a meeting of the members of the corporation by resolution so directs, instruct such experts both as are named in the resolution to report on the proposal and forward their report or reports to the directors as soon as may be; and

(b) make such report or reports available at the registered office of the corporation for inspection by the shareholders and creditors of the corporation at least 14 days before the date of any meeting ordered by the Registrar to be summoned as provided in subsection (1).

[subs (6) am Act 38 of 2018 s 32, opn 15 Jan 2019]

(7) Every corporation which makes default in complying with subsection (5) or (6) and every officer of a corporation who is in default is guilty of an offence.

(8) Where no order has been made or resolution passed for the winding-up of a corporation and any such compromise or arrangement as is referred to in subsection (1) has been proposed between the corporation and its creditors, or any class of such creditors, the Registrar may, in addition to any of his or her other powers, on an application lodged by the corporation or by any member or creditor of the corporation restrain further proceedings in any action or proceeding against the corporation except by leave of the court in which the action or proceeding is pending or of the Registrar and subject to such terms as the court or the Registrar imposes.

(9) In this Section:

"arrangement" includes a reorganisation of the share capital of a corporation by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both these methods; and

"corporation" means any corporation or society liable to be wound-up under this Act.

148 Information as to compromise with creditors and members

(1) Where a meeting is summoned under Section 147, there shall:

(a) with every notice summoning the meeting which is sent to a creditor or member, be sent also a statement explaining the effect of the compromise or arrangement and in particular stating the material interests of the directors, whether as directors or as members or as creditors of the corporation or otherwise, and the effect thereon of the compromise or arrangement in so far as it is different from the effect on the like interests of other persons; and

(b) in every notice summoning the meeting which is given by advertisement, be included either such statement or a notification of the place at which and the manner in which creditors or members entitled to attend the meeting may obtain copies of such statement.

(2) Where the compromise or arrangement affects the rights of debenture holders the statement shall give the like explanation with respect to the trustee for the debenture holders as, under subsection (1), a statement is required to give with respect to the directors.

(3) Where a notice given by advertisement includes a notification that copies of such statement can be obtained, every creditor or member entitled to attend the meeting shall on making application in the manner indicated by the notice be furnished by the corporation free of charge with a copy of the statement.

(4) Each director and each trustee for debenture holders shall give notice to the corporation of such matters relating to himself or herself as may be necessary for the purposes of this Section.

(5) Where default is made in complying with any requirements of this Section, the corporation and every officer of the corporation who is in default is guilty of an offence.

(6) For the purpose of subsection (5), a liquidator of the corporation and trustee for debenture holders shall be deemed to be officers of the corporation.

(7) Notwithstanding the provisions of subsection (5), a person shall not be liable under that subsection, if he or she shows that the default was due to

the refusal of any other person, being a director or trustee for debenture holders, to supply the necessary particulars as to his or her interests.

149 Provisions for facilitating reconstruction and amalgamation of corporations

(1) Where an application is lodged with the Registrar or made to the court under this Part for the approval of a compromise or arrangement and it is shown to the Registrar or 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 corporation or corporations or the amalgamation of any 2 or more corporations and that under the scheme the whole or any part of the undertaking or the property of any corporation concerned in the scheme, in this Section referred to as the "transferor corporation", is to be transferred to another corporation, in this Section referred to as the "transferee corporation", the Registrar or the court may either by order approving the compromise or arrangement or by any subsequent order provide for all or any of the following matters:

(a) the transfer to the transferee corporation of the whole or any part of the undertaking and of the property or liabilities of the transferor corporation;

(b) the allotting or appropriation by the transferee corporation of any shares, debentures, policies or other like interests in that corporation which under the compromise or arrangement are to be allotted or appropriated by that corporation to or for a person;

(c) the continuation by or against the transferee corporation of any legal proceedings pending by or against the transferor corporation;

(d) the dissolution, without winding-up, of the transferor corporation;

(e) the provision to be made for a persons who, within such time and in such manner as the Registrar or the court directs, dissent from the compromise or arrangement; or

(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 made under this Section provides for the transfer of property or liabilities, then by virtue of the order that property shall be transferred to and vest in, and those liabilities shall be transferred to and become liabilities of, the transferee corporation free, in the case of any particular property if the order so directs, 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 corporation in relation to which the order is made shall lodge an office copy with the Registrar and pay the prescribed fee within 14 days after the making of the order and every corporation which makes default in complying with this subsection and every officer of the corporation who is in default is guilty of an offence.

(4) In this Section, ***'property'*** includes property rights and powers of every description.

150 Takeover offers

Regulations may be made by the Cabinet for regulating takeover offers.

[The next page is 32,401]

151 Qualification for appointment as receiver

(1) In this Part, ***'receiver'*** includes a receiver of the property of a corporation or any part or of the property of a foreign corporation registered in the Republic and a manager appointed by or on behalf of a secured creditor or by the court.

(2) Unless regulations made under this Act otherwise provide, a corporation shall not be appointed a receiver unless it is an official liquidator.

152 Directions and liability

(1) A receiver appointed under the powers contained in any instrument may lodge an application with the Registrar for directions in relation to any matter arising in connection with the performance of his or her functions.

(2) A receiver shall be personally liable on any contract entered into by him or her in the performance of his or her functions except insofar as the contract otherwise provides and shall be entitled in respect of that liability to indemnity out of the assets; but nothing in this subsection shall be taken as limiting any right to indemnity which he or she would have apart from this subsection, or as limiting his or her liability on contracts entered into without authority or as conferring any right to indemnity in respect of that liability.

153 Notification of appointment of receiver

(1) Where a person obtains an order for the appointment of a receiver, or appoints such receiver under any powers contained in any instrument he or she shall, within 14 days after he or she has obtained the order or made the appointment, lodge notice of the fact with the Registrar.

(2) Where a person appointed receiver under the powers contained in any instrument ceases to act as such, he or she shall within 21 days thereafter lodge with the Registrar notice to that effect.

(3) Every person who makes default in complying with the requirements of this Section is guilty of an offence.

154 Statement that receiver appointed

(1) Where a receiver has been appointed, every invoice, order for goods or business letter issued by or on behalf of the corporation by the receiver or liquidator of the corporation, being a document on or in which the name of the corporation appears, shall contain a statement immediately following the name of the corporation that a receiver has been appointed.

(2) Where default is made in complying with this Section, the corporation and every officer and every liquidator of the corporation or receiver who knowingly and wilfully authorises or permits the default is guilty of an offence.

155 Provisions as to information where receiver appointed

(1) Where a receiver is appointed:

(a) he or she shall forthwith send notice to the corporation of his or her appointment;

(b) there shall within 14 days after receipt of the notice, or such longer period as may be allowed by the Registrar or by the receiver, be made out and submitted to the receiver in accordance with the provisions of Section 156, a statement in the prescribed form as to the affairs of the corporation; and

(c) he or she shall within one month after receipt of the statement:

(i) lodge with the Registrar a copy of the statement and of any comments he or she sees fit to make;

(ii) send to the corporation a copy of any such comments as aforesaid or, if he or she does not see fit to make any comment, a notice to that effect; and

(iii) where he or she is appointed by or on behalf of holders of debentures of the corporation, send to the trustees, if any, for those holders a copy of the statement and his or her comments thereon.

(2) Subsection (1) shall not apply in relation to the appointment of a receiver to act with an existing receiver or in the case of a receiver dying or ceasing to act, except that, where that subsection applies to a receiver who dies or ceases to act before that subsection has been fully complied with, the references in paragraphs (b) and (c) to the receiver shall include references to his or her successor.

156 Special provisions as to statements made to receiver

(1) The statement as to the affairs of a corporation required by Section 155 to be submitted to the receiver shall show as at the date of the receiver's appointment the particulars of the corporation's assets, debts and liabilities, the names and addresses of its creditors, the securities held by them respectively and the date when the securities were respectively given and such further or other information as may be prescribed.

(2) The statement shall be submitted by, and be verified by statutory declaration of, one or more persons who were at the date of the receiver's appointment the directors of the corporation or by such of the persons hereafter in this Section mentioned as the receiver may require to submit and verify the statement, that is to say:

(a) persons who are or have been officers;

(b) persons who have taken part in the formation of the corporation at any time within one year before the date of the receiver's appointment;

(c) persons who are in the employment of the corporation or who have been in the employment of the corporation within that year, and in the opinion of the receiver are capable of giving the information required; or

(d) persons who are or have been within that year officers of or in the employment of a corporation which is, or within that year was, an officer of the corporation to which the statement relates.

(3) A person making a statement and statutory declaration shall be allowed and shall be paid by the receiver, or his or her successor, out of his or her

receipts such costs and expenses incurred in and about the preparation and making of the statement and statutory declaration as the receiver, or his or her successor, may consider reasonable subject to an appeal to the Registrar.

(4) Where a person makes default in complying with the requirements of this Section, he or she is guilty of an offence.

157 Lodging of accounts of receivers

(1) Every receiver shall:

(a) within one month after the expiration of the period of 6 months from the date of his or her appointment and of every subsequent period of 6 months and within one month after he or she ceases to act as receiver lodge with the Registrar a detailed account in the prescribed form showing:

(i) his or her receipts and his or her payments during each period of 6 months, or where he or she ceases to act as receiver during the period from the end of the period to which the last preceding account related or from the date of his or her appointment, as the case may be, up to the date of his or her so ceasing;

(ii) the aggregate amount of both receipts and payments during all preceding periods since his or her appointment; and

(iii) where he or she has been appointed pursuant to the powers contained in any instrument, the amount owing under that instrument at the time of his or her appointment in the case of the first account, and at the expiration of every 6 months after his or her appointment, and where he or she has ceased to act as receiver at the date of his or her so ceasing and his or her estimate of the total value of all assets of the corporation which are subject to that instrument; and

(b) before lodging such account verify by statutory declaration all accounts and statements referred to therein.

(2) The Registrar may, of his or her own motion or on the application of the corporation or a creditor, cause the accounts to be audited by an auditor appointed by the Registrar and for the purposes of the audit the receiver shall furnish the auditor with such vouchers and information as he or she requires and the auditor may at any time require the production of and inspect any books kept by the receiver and any document or other record relating thereto.

[subs (2) am Act 38 of 2018 s 33, opn 15 Jan 2019]

(3) The Registrar may make an order for the payment of the costs of an audit ordered by him or her and, where he or she causes the accounts to be audited upon the request of the corporation or a creditor, he or she may require the applicant to give security for the payment of the cost of the audit.

158 Payment of certain debts out of assets subject to floating charge in priority to claims under charge

(1) Where a receiver is appointed on behalf of the holders of any debentures of a corporation secured by a floating charge or possession is taken by or on

behalf of debenture holders of any property comprised in or subject to any floating charge then if the corporation is not at the time in the course of being wound-up, debts which in every winding-up are preferential debts shall be paid out of any assets coming to the hands of the receiver or other person taking possession in priority to any claim for principal or interest in respect of the debentures and shall be paid in the same order of priority as they would be in a winding-up.

(2) Any payments made under this Section shall be recouped as far as may be out of the assets of the corporation available for payment of general creditors.

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PART 9 — WINDING-UP

DIVISION 1 — PRELIMINARY

159 Modes of winding-up

(1) A corporation may be wound-up either,
(a) compulsorily; or
(b) voluntarily.

(2) Unless inconsistent with the context or subject matter, the provisions of this Act with respect to winding-up, apply to the winding-up of a corporation in either of those modes.

160 Republic bound

The provisions of this Part relating to the remedies against the property of a corporation, the priorities of debts and the effect of an arrangement with creditors shall bind the Republic.

161 Certificate as to winding-up

(1) The Registrar shall, upon application lodged by a person in the prescribed form and upon payment of the prescribed fee, issue a certificate stating whether at the date of the certificate a corporation is being wound-up, or a petition has been presented for the winding-up of the corporation and is pending.

(2) Notice of the issue and effect of such certificate may be given by telegram, cable, telex or wireless if the applicant for the certificate so requests and pays the cost.

(3) Neither the Republic nor the Registrar nor any officer or servant of the Republic shall be liable by reason of any error, mistake, inaccuracy or delay in or in the giving of the certificate or notice by whatsoever cause or means arising, unless such error, mistake, inaccuracy or delay was wilful and fraudulent.

162 Effect of winding-up

(1) A corporation shall from the commencement of the winding-up cease to carry on business, except so far as, in the opinion of the liquidator, is required for the beneficial winding-up, but the corporate state and corporate powers of the corporation shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved and until it is dissolved it shall renew its certificate of incorporation whenever it expires.

(2) On the commencement of the winding-up of any corporation, all the powers of the directors shall cease except so far as the liquidator of the corporation approves the continuance of it.

(3) 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 made after the commencement of the winding-up shall be void.

[subs (3) am Act 21 of 2016 s 21, opn 12 May 2016]

163 Avoidance of disposition of property

Any disposition of the property of the corporation including things in action made after the commencement of the winding-up shall, unless the court otherwise orders, be void.

164 Costs of the winding-up

(1) All proper costs, charges and expenses of and incidental to the winding-up, including the remuneration of the liquidator, shall be payable out of the assets of the corporation in priority to all other claims of whatsoever nature.

(2) The court may, in the event of the assets being insufficient to satisfy such costs, charges and expenses make an order as to the payment out of the assets of such costs, charges and expenses in such order of priority as the court thinks just.

165 Custody and vesting of corporation's property

On the commencement of any winding-up or when a provisional liquidator has been appointed, the liquidator or provisional liquidator shall take into his or her custody or under his or her control all the property and things in action to which the corporation is or appears to be entitled and, if there is no liquidator, all the property of the corporation shall be in the custody of the Minister.

166 Delivery of assets

The court may require any contributory, trustee, receiver, banker, agent or officer of the corporation to pay, deliver, convey, surrender or transfer to the liquidator or provisional liquidator forthwith or within such time as the court directs any money, property, books and papers in his or her hands to which the corporation is *prima facie* entitled.

167 Avoidance of certain transactions

Any attachment, sequestration, distress or execution put in force against the estate or effects of the corporation after the commencement of its winding-up shall, unless the court otherwise orders, be void.

168 Pending proceedings

After the commencement of the winding-up no action or proceeding shall be proceeded with or commenced nor shall any judgment be executed against a corporation unless the court otherwise orders.

169 Power to stay winding-up

(1) At any time after the commencement of a winding-up the court may, on the application of a person, order that the winding-up be stayed.

(2) The order staying or refusing to stay the winding-up shall be made on such terms and conditions as the court sees fit.

(3) A copy of every order under this Section shall be lodged by the liquidator with the Registrar forthwith.

170 Delegation to liquidator of Registrar's powers

Unless rules of court otherwise provide, the court may order that the powers and duties imposed on the court by this Part in respect of:

(a) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
(b) the settling of lists of contributories, 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 and the adjusting of the rights of contributories; and
(e) the fixing of a time within which debts and claims shall be proved,

may be exercised or performed by the liquidator as an officer of the court and subject to the control of the court, but the liquidator shall not without the special leave of the court rectify the register of members or make any call.

171 Liability as contributories of present and past members

(1) Upon a corporation being wound-up, every present and past member shall be liable to contribute to the assets of the corporation 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 other provisions of this Section and to the following qualifications:
  (a) a past member shall not be liable to contribute if he or she has ceased to be a member for 1 year or more 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 corporation contracted after he or she ceased to be a member;
  (c) a past member shall not be liable to contribute unless the existing members have failed to satisfy the contributions required to be made by them in pursuance of this Act within 42 days from notice being given of such contributions in the manner prescribed;
  (d) upon a past member becoming liable to contribute pursuant to this subsection, he or she shall be immediately liable to pay the amount of such contribution to the liquidator of the corporation and thereupon shall be entitled to receive from the liquidator a certificate of the names of the existing members who have failed to contribute within the time provided by paragraph (c) and such certificate shall be conclusive evidence of the right of such past member to recover from such existing members jointly and severally the amount of the contribution paid by him or her;
  (e) in the case of a trading corporation no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he or she is liable as a present or past member;
  (f) in the case of a holding corporation, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he or she is liable as a present or past member other than of an amount sufficient for the payment of the costs, charges and expenses of the winding-up and of any fees or penalties outstanding under this Act and not recovered by the liquidator or Registrar, as the case may be, from the assets of the corporation; and
  (g) a sum due to any member in his or her character of a member by way of dividends, profits or otherwise shall not be a debt of the corporation

payable to that member in the case of a composition between himself or herself and any other creditor not a member, 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) Nothing in this Section shall limit the liability of a director apart from his or her liability as a member in so far as that liability is imposed by this Act, the articles of the corporation or otherwise.

(3) Notwithstanding anything contained in this Act, in the articles of any corporation or otherwise provided by law, no registered director of a corporation shall be liable to contribute otherwise than as a contributory upon the winding-up of the corporation for any cause whatsoever other than wilful misconduct, wilful default or wilful neglect.

(4) Notwithstanding anything in this Act or in the articles of the corporation contained or otherwise provided by law, no trustee corporation incorporated in the Republic shall be liable to contribute to the assets of any corporation of which it is a member or past member as trustee upon a winding-up otherwise than to the extent of the assets in its hand held, after all its proper charges and costs are deducted, for the *cestui que* trust but such *cestui que* trust shall be liable and, if more than one, jointly and severally liable to pay the balance of any call remaining unpaid thereafter and the trustee corporation shall supply to the liquidator upon request all the information available to it relating to the *cestui que* trust.

(5) [subs (5) rep Act 38 of 2018 s 34, opn 15 Jan 2019]

172 Nature of liability of contributory

The liability of a contributory shall create a debt of the nature of a specialty accruing due from him or her at the time when his or her liability commenced but payable at the time when calls are made for enforcing the liability.

173 Contributories in case of death or bankruptcy of member

(1) Where a contributory dies, either before or after he or she has been placed on the list of contributories, his or her personal representatives shall be liable in due course of administration to contribute to the assets of the corporation in discharge of his or her liability and shall be contributories accordingly, and if they make default in paying any money ordered to be paid by them proceedings may be taken for administering the estate of the deceased contributory and for compelling payment of the money due.

(2) Where in the Republic or elsewhere a contributory is adjudged bankrupt or insolvent or assigns his or her estate for the benefit of his or her creditors, either before or after he or she has been placed on the list of contributories:

(a) his or her trustee shall represent him or her for all the purposes of the winding-up and shall be a contributory accordingly; and

(b) there may be proved against his or her estate the estimated value of his or her liability for future calls as well as those already made.

174 Distribution of assets

Subject to the provisions of Section 173 and subject to the provisions of this Act as preferential payments, the property of a corporation shall, on its winding-up, be applied in satisfaction of its liabilities equally, and subject to that application

shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the corporation.

175 Admission of claims to proof

(1) No claim shall be admitted to proof in a winding-up unless:
  (a) a judgment of a court outside the Republic in respect of it could be registered in any court of the Republic and thereupon enforced in the Republic; or
  (b) such claim would be enforceable by proceedings in a court of the Republic.

(2) Where the identity or address of any member is not known to him or her, the liquidator shall pay any money due to such member into the unclaimed monies fund established by the Republic for the purpose and the provisions of Section 193(2), (3), (4) and (5), shall apply *mutatis mutandis* to such monies.

176 Proof and ranking of claims

Regulations shall be made by the Cabinet to provide for the proof and ranking of claims in a winding-up.

177 Claims of creditors and distribution of assets

(1) The court or, in a voluntary winding-up, the liquidator may fix a date on or before which creditors are to prove their debts or claims or after which they will be excluded from the benefit of any distribution made before those debts are proved:

Provided that the court or the liquidator, as the case may be, or, in a voluntary winding-up, the Registrar may from time to time extend the date fixed and fix a new date.

(2) Any surplus after payment of all liabilities of the corporation, including the costs, charges and expenses of the winding-up, shall be distributed by the liquidator amongst the persons entitled thereto but, in the event of a dispute as to the persons entitled thereto, the liquidator, after receiving notice of such dispute, shall refer the dispute to the court and shall be discharged by payment in accordance with the order of the court.

(3) Where no notice of dispute as to the persons entitled to a distribution of the surplus or any part of it is received by the liquidator prior to making such distribution, whether interim or final, the liquidator shall be discharged from any liability to a person in respect of the amount so distributed but without prejudice to the rights of such person to recover the same from the person receiving the distribution.

DIVISION 2 — COMPULSORY WINDING-UP

178 Application for winding-up

(1) A corporation, whether or not it is being wound-up voluntarily, may be wound-up compulsorily under an order of the court.

(2) The court may order the winding-up of a corporation upon the petition of:
  (a) the corporation;
  (b) any creditor, including a contingent or prospective creditor;

(c) a contributory;
(d) the liquidator;
(e) the Minister;
(f) a director of the corporation; or
(g) or any 2 or more of those persons.

(3) No petition shall be filed in the court unless it is accompanied by a copy of it.

(4) The Deputy Registrar of the court, upon a petition being filed, shall forthwith deliver a copy of it to the Registrar.

(5) Pending the making of an order consequent on any such petition, the court by order may appoint an official liquidator as provisional liquidator of the corporation.

(6) Notice of any order made on or in respect of a petition shall immediately be lodged with the Registrar and served on the liquidator named in such order and on the corporation.

(7) Regulations may be made by the Cabinet restricting the grounds upon which a petition may be presented by any or all of the persons referred to in subsection (2) or the time within which petitions may be presented on any one or more grounds and specifying the circumstances in which a winding-up order may or may not be made or shall or shall not be made.

179 Circumstances in which corporation may be wound-up compulsorily

(1) Subject to the provisions of Section 178, the court may order that a corporation be wound-up if:
(a) the corporation has by special resolution resolved that it be wound-up under the order of the court;
(b) default is made by the corporation in lodging any annual or other statutory return or lodging any statutory report or in holding any statutory meeting;
(c) the corporation acquires the whole of its own shares or being a holding corporation has no member, or being a trading corporation has fewer than 2 members, provided always in the case of a holding corporation it shall not be liable to be wound-up under this paragraph so long as debentures of the kind referred to in Section 66(12) are issued and not redeemed;
(d) the corporation is unable to pay its debts;
(e) directors have acted in the affairs of the corporation in their own interests rather than in the interests of the members as a whole or in any other manner whatsoever which appears to be unfair or unjust to other members;
(f) the court is of opinion that it is just and equitable that the corporation should be wound-up;
(g) on the petition of the Minister it appears that:
(i) the corporation has persistently been in breach of this Act;
(ii) the corporation has failed to pay any penalty or fee which under this Act it is liable to pay;
(iii) the corporation has failed to renew its certificate of incorporation for a period of 90 days after the same should have been renewed;

(iv) a director or officer of the corporation has failed to pay any penalty imposed on him or her under this Act;

(v) the corporation has failed to make good a default within 60 days after service on it of a notice under the provisions of Section 12(7) requiring it to do so;

(vi) having been converted from a holding corporation into a trading corporation under the provisions of Section 29(2), the corporation has failed to comply with the provisions of this Act;

(vii) being a trading corporation, it has for a continuous period of not less than 3 months had no director other than a registered director; or

(viii) the corporation has been ordered by the Cabinet to cease to carry on business, or any part of its business, under the provisions of Section 247; or

(h) on the petition of a director of a trading corporation who is a registered director it appears that the corporation no longer has any director other than a registered director.

[subs (1) am Act 14 of 1975 s 7, opn 20 Nov 1975]

(2) A corporation shall be deemed to be unable to pay its debts, if:

(a) a creditor by assignment or otherwise to whom the corporation is indebted in a sum exceeding $200 then due has served on the corporation by leaving at the registered office a demand under his or her hand or under the hand of his or her agent thereunto lawfully authorised requiring the corporation to pay the sum so due and the corporation has for 60 days thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor;

(b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the corporation is returned unsatisfied in whole or in part; or

(c) it is proved to the satisfaction of the court that the corporation is unable to pay its debts and in determining whether a corporation is unable to pay its debts the court shall take into account the contingent and prospective liabilities of the corporation.

(3) No debt which cannot be admitted in a winding-up may found a petition on the ground that the corporation is unable to pay its debts.

180 Commencement of compulsory winding-up

(1) Where before the order for compulsory winding-up a voluntary winding-up has commenced, the compulsory winding-up of the corporation shall be deemed to have commenced when the voluntary winding-up commenced.

(2) In any other case the compulsory winding-up shall be deemed to have commenced:

(a) where a provisional liquidator has been appointed and an order for the corporation to be wound-up is subsequently made, at the time when such appointment is made; or

(b) where no provisional liquidator has been appointed, at the time when the order is made for the corporation to be wound-up.

181 Payment of costs

Upon a winding-up order being made, the liquidator shall, unless the court

otherwise orders, reimburse the petitioner out of the assets of the corporation the reasonable costs incurred by the petitioner in the proceedings for winding-up.

182 Costs relating to winding-up

Subject to the provisions of Section 181, the costs of a winding-up petition shall be in the discretion of the court.

183 Copy of order to be lodged

(1) The petitioner shall within 30 days after the making of the winding-up order lodge a copy of the order with the Registrar and pay the prescribed fee and shall cause a copy to be served upon the corporation.

[subs (1) am Act 38 of 2018 s 35, opn 15 Jan 2019]

(2) Where default is made in complying with subsection (1), the petitioner is guilty of an offence.

184 Appointment of liquidator

(1) The court before making an order for the winding-up of a corporation shall appoint a liquidator of the corporation and the court may require him or her to give such security as it thinks fit and such liquidator shall, unless the court for special reason orders otherwise, be an official liquidator.

(2) The court may by order 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 the provisional liquidator so appointed shall have and may exercise all the functions and powers of a liquidator subject to such limitations and restrictions as may be provided by the order appointing him or her or any subsequent order of the court and any reference in this Act to a liquidator shall include a provisional liquidator.

185 Validation of proceedings in voluntary winding-up

Unless the court otherwise orders, all things done in any voluntary winding-up preceding the making of a winding-up order shall be deemed to have been validly done.

186 Statement of affairs

(1) Upon a winding-up order being made, there shall be made out and verified in the prescribed form and manner and submitted to the liquidator a statement as to the affairs of the corporation as at the date of the winding-up order showing:
   (a) the particulars of its assets, debts and liabilities;
   (b) the names and addresses of its creditors;
   (c) the securities held by them respectively;
   (d) the dates when the securities were respectively given; and
   (e) such further information as is prescribed or as the liquidator requires.

(2) The statement shall be submitted by one or more of the persons who, at the date of the winding-up order, were directors, or by such of the persons hereinafter mentioned as the liquidator, subject to the direction of the Registrar, requires, that is to say persons:
   (a) who are or have been the officers of the corporation;

(b) who have taken part in the formation of the corporation at any time within 1 year before the date of the winding-up order;
(c) who are or have been within that period officers of or in the employment of a corporation which is, or within that period was, an officer of the corporation to which the statement relates; or
(d) where a voluntary winding-up preceded the order, the liquidator in such winding-up.

(3) The statement shall be submitted within 60 days after the date of the winding-up order or within such extended time as the court or the liquidator for good reason allows, and the liquidator shall within 7 days after its receipt cause a copy of the statement to be lodged with the Registrar.

(4) A person making or concurring in making the statement required by this Section may, subject to the Regulations, be allowed and be paid by the liquidator, out of the assets of the corporation, such costs and expenses incurred in and about the preparation and making of the statement as the liquidator considers reasonable.

(5) Every person who without reasonable excuse makes default in complying with the requirements of this Section is guilty of an offence.

187 Settlement of list of contributories and application of assets

(1) As soon as may be after making a winding-up order, the court shall settle a list of contributories and may rectify the register of members and enquire into and determine who are the members of the corporation in all cases, where such rectification or enquiry is required for settling a correct list of contributories.

[subs (1) am Act 21 of 2016 s 22, opn 12 May 2016]

(2) Notwithstanding subsection (1), where it appears to the court that it will not be necessary to make calls on or adjust the rights of the contributories, it may dispense with the settlement of a list of contributories.

(3) 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 obligations of others.

(4) The list of contributories when settled shall be *prima facie* evidence of the liabilities of the persons named therein as contributories.

188 Report of liquidator

(1) The liquidator in a compulsory winding-up shall as soon as practicable, after receipt of the statement of affairs, submit a preliminary report to the Minister:
(a) as to the amount of capital issued, subscribed and paid up and the estimated amount of assets and liabilities;
(b) if the corporation has failed, as to the causes of the failure; and
(c) whether in his or her opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the corporation or the conduct of the business.

(2) The liquidator may also, if he or she thinks fit, make further reports stating the manner in which the corporation was formed and whether in his or her opinion any fraud has been committed or any material fact has been

concealed by a person in its promotion or formation or by any officer in relation to the corporation since its formation and specifying any other matter which in his or her opinion it is desirable to bring to the notice of the Minister.

DIVISION 3 — VOLUNTARY WINDING-UP

189 Circumstances in which trading corporation may be wound-up voluntarily

(1) A trading corporation may be wound-up voluntarily if the corporation so resolves by special resolution and the winding-up shall commence at the time when notice of the resolution for voluntary winding-up is lodged with the Registrar.

(2) The resolution to wind-up the corporation shall name and appoint the liquidator, who shall be an official liquidator, but in default the Registrar shall appoint as liquidator such official liquidator as he or she shall think fit.

(3) A trading corporation shall:

(a) forthwith upon the passing of the resolution to wind up the corporation notify the liquidator named in the resolution and lodge a notice with the Registrar;

(b) within 30 days after the passing of a resolution for voluntary winding-up lodge a copy of the resolution with the Registrar and pay the prescribed fee; and

(c) within 30 days after the passing of the resolution, give notice of the resolution in a newspaper prescribed by regulations made under this Act or directed by the Registrar.

(4) Where the corporation fails to comply with the provisions of subsection (3), it and every officer of it who is in default is guilty of an offence.

190 Circumstances in which holding corporation may be wound-up voluntarily

(1) The holding corporation may be wound-up voluntarily if the holders of more than 50 percent in number or par value of the issued shares being registered shares and whether held by the corporation itself or not, lodge with the Registrar in the prescribed manner notice of their desire that the corporation be wound-up voluntarily.

[subs (1) subst Act 38 of 2018 s 36, opn 15 Jan 2019]

(2) Upon the Registrar being satisfied that the notice of the desire of the holders of more than 50 percent in number or par value of the issued shares of the corporation has been lodged with him or her, he or she shall appoint under his or her hand an official liquidator to be liquidator of the corporation and thereupon the winding-up shall commence.

(3) In the case of a holding corporation, no advertisement of the winding-up shall be necessary but, without imposing any obligation on the liquidator or the Registrar so to do in any case, the liquidator or the Registrar may give such notices and make such enquiries as they see fit to ascertain the identity of the holders of the shares in the corporation and of the creditors, if any, and the costs and expenses of and incidental to so doing shall be paid out of the assets of the corporation.

191 Declaration of solvency

(1) Where it is proposed to wind up a corporation voluntarily the directors of the corporation or, in the case of a corporation having more than 2 directors, the majority of the directors may, before the date on which the resolution for the winding-up of the corporation is passed or the notice under Section 190 is lodged, make and lodge with the Registrar a written declaration to the effect that they have made an inquiry into the affairs of the corporation, and have formed the opinion that the corporation will be able to pay its debts in full within a period not exceeding 12 months after the date of the making of the declaration.

(2) There shall be attached to the declaration a statement of affairs of the corporation showing in the prescribed form:
  (a) the assets of the corporation and the total amount expected to be realised therefrom;
  (b) the liabilities of the corporation; and
  (c) the estimated expenses of winding-up, made up to the latest practicable date before the making of the declaration.

(3) A declaration so made shall have no effect for the purposes of this Act unless it is:
  (a) made within 5 weeks immediately preceding the passing of the resolution for voluntary winding-up; and
  (b) lodged with the Registrar before the date on which the resolution for the winding-up of the corporation is passed.

(4) A director who makes a declaration under this Section without having reasonable grounds for the opinion that the corporation will be able to pay its debts in full within the period stated in the declaration is guilty of an offence.

(5) Where the corporation is wound-up in pursuance of a resolution for voluntary winding-up passed within a period of 5 weeks after the making of the declaration but its debts are not paid or provided for in full within the period stated in the declaration, it shall be presumed until the contrary is shown that the director did not have reasonable grounds for his or her opinion.

192 Conversion of voluntary winding-up to compulsory winding-up

Where a corporation is being wound-up voluntarily:

(a) if the liquidator is at any time of the opinion that the corporation will not be able to pay or provide for the payment of its debts in full or, if not in full, to the satisfaction of all the creditors, he or she shall forthwith give notice to the creditors of that opinion; and

(b) upon such notice being given the winding-up shall continue as a compulsory winding-up and the liquidator shall forthwith lodge with the court a notice to that effect in the prescribed form and thereupon the court shall be deemed to have ordered the winding-up and to have appointed the liquidator.

193 Payment of claims by liquidator of holding corporation in voluntary liquidation

(1) Within 120 days after the commencement of the voluntary winding-up of a holding corporation, or within such further time as the Registrar may allow,

the liquidator shall make such enquiries as to claims and give such notices by advertisement or otherwise as the regulations provide, or, until such regulations are made, as the liquidator thinks fit, and thereafter the liquidator, subject to the retention of a fund sufficient to meet the costs, charges and expenses and future costs, charges and expenses of the liquidation, shall pay such claims in the liquidation of which he or she has actual notice and which he or she has admitted or which are admissible and, without regard to other claims of which he or she has no notice or which are not admissible, shall distribute the surplus rateably amongst the contributories, in the case of those contributories whose identity is known to the liquidator by paying over to them their shares or otherwise accounting to them for their respective shares in the surplus and in the case of those contributories whose identities are not known to the liquidator by paying over to the unclaimed monies fund to be established by the Republic for the purpose the shares of those contributories.

(2) Upon making the payments referred to in subsection (1), the liquidator shall lodge with the Registrar a certificate to that effect and the corporation shall be thereupon dissolved.

(3) A claim by an unidentified contributory to recover his or her shares in the surplus paid into the unclaimed monies fund shall become a claim against the Republic to be paid out of the said fund provided that such a claim is made within 6 years from the date of the liquidator's certificate and prosecuted with due diligence thereafter, and after the expiration of 6 years without any claim having been made, or, if made within that time, without any claim having been allowed, the amount standing in the unclaimed monies fund in respect of the unidentified contributory shall be transferred to and become part of the Treasury Fund of the Republic.

(4) The Minister may extend the time for making a claim upon the unclaimed monies fund whether the time for making the claim has expired or not and whether or not the monies in respect of which the claim has been made have been transferred to the Treasury Fund and, if any claim is allowed after the amount has been transferred to and become part of the Treasury Fund, it shall be paid out of, and be a charge upon, the Treasury Fund.

(5) Regulations may be made for the establishment and administration of a fund to answer claims of creditors either not admitted by the liquidator or barred by the dissolution of a holding corporation prior to their submission to and allowance by the liquidator and prescribing the manner in which such claims may be made and determined and the amounts which may be claimed from such fund either in respect of a particular holding corporation or in respect of a particular claim and for enabling the recovery from contributories to whom payments of surplus have been made of the amount or amounts paid out of such fund and of costs, charges and expenses incurred in respect of the claim or claims made upon the fund:

Provided that such regulations shall not permit recovery from a contributory unless proceedings to enforce recovery are commenced within a period of 9 years from the date of the liquidator's certificate.

[The next page is 32,701]

DIVISION 4 — LIQUIDATORS

194 Vacancy in office of liquidator

Where in the course of a winding-up a vacancy occurs by death, resignation or otherwise in the office of a liquidator, in the case of a compulsory winding-up the court shall fill the vacancy by the appointment of a liquidator, provided that the liquidator so appointed shall, unless the court for special reasons otherwise orders, be an official liquidator, and in the case of a voluntary winding-up the vacant office shall be filled by the Registrar in like manner.

195 Replacement of liquidator

Subject to rules of court, the court may remove a liquidator and appoint another liquidator in his or her place.

196 Validity of liquidator's acts

(1) The acts of a liquidator shall be valid notwithstanding any defects that may be discovered in his or her appointment or qualification.

(2) Any conveyance, assignment, transfer, mortgage, charge or other disposition of a corporation's property made by a liquidator shall, notwithstanding any defect or irregularity affecting the validity of the winding-up or the appointment of the liquidator, be valid in favour of a person taking such property *bona fide* and for value and without notice of such defect or irregularity.

(3) Every person making or permitting any disposition of property to any liquidator shall be protected and indemnified in so doing, notwithstanding any defect or irregularity affecting the validity of the winding-up or the appointment of the liquidator not then known to such person.

(4) For the purposes of this Section, a disposition of property shall be taken as including a payment of money.

197 General provisions as to liquidators

(1) A person or corporation appointed to be the liquidator of a corporation may resign.

(2) In the event of a corporation or contributory seeking the removal of a liquidator and such removal being opposed by the liquidator, the question shall be referred to the court and upon cause being shown the court may order that the said liquidator be removed and thereupon the said liquidator shall cease to be the liquidator of the corporation.

(3) Upon discovery of any defect in the appointment or qualifications of a liquidator, the Minister may by notice in the Gazette validate such appointment and the liquidator shall thereupon be deemed for all purposes to have been validly appointed on and from such date as may be specified in the notice.

198 Powers of liquidator

(1) A liquidator may, subject to regulations made under this Act and, in a compulsory winding-up, subject to any order or rule of the court:

(a) carry on the business of the corporation so far as is necessary for the beneficial winding-up of it;
(b) subject to the provisions of this Act, pay any class of creditors in full;
(c) 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 corporation or whereby the corporation may be rendered liable;
(d) compromise any calls and liabilities to calls, debts and liabilities capable of resulting in debts and any claims present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and a contributory or other debtor or person apprehending liability to the corporation, and all questions in any way relating to or affecting the assets or the winding-up of the corporation, on such terms as are agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect of it;
(e) bring or defend any action or other legal proceeding in the name and on behalf of the corporation;
(f) appoint a legal practitioner, an accountant or some other expert to assist him in his or her duties;
(g) sell the real and personal property and things in action of the corporation by public auction, public tender or private contract with power to transfer the whole to a person or corporation or to sell the same in parcels;
(h) do all acts and execute in the name and on behalf of the corporation all deeds, receipts and other documents and for that purpose use when necessary the corporation's seal;
(i) prove rank and claim in the insolvency, bankruptcy or liquidation of any contributory or debtor for any balance against his or her estate, and receive dividends in the insolvency, bankruptcy or liquidation in respect of that balance as a separate debt due from the insolvent, bankrupt or corporation in liquidation and rateably with the other separate creditors;
(j) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation with the same effect with respect to the liability of the corporation as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of its business;
(k) raise on the security of the assets of the corporation any money requisite;
(l) take out or cause to be taken out probate or letters of administration of the estate of any deceased contributory or debtor, and do any other act necessary for obtaining payment of any money due from a contributory or debtor or his or her estate which cannot be conveniently done in the name of the corporation, and in all such cases the money due shall for the purposes of enabling the liquidator to take out or cause to be taken out the probate or letters of administration or recover the money be deemed due to the liquidator himself or herself;
(m) appoint an agent or expert to do any business or carry out any work or give any recommendation or advice which the liquidator is unable or

unqualified to do himself or herself and to pay the proper charges of such agents or experts for the doing of such work and to pay the proper expenses incurred in and incidental to the doing of such work; and

(n) do all such other things as are necessary or convenient and reasonable for winding-up the affairs of the corporation and distributing its assets.

[subs (1) am Act 38 of 2018 s 37, opn 15 Jan 2019]

(2) Where any creditor or contributory of the corporation contends that the liquidator should do or refrain from doing any of the acts or things hereinbefore mentioned or is aggrieved by any act or decision of the liquidator, such person may submit to the Registrar his or her contention in respect of it, setting forth shortly the grounds and if the Registrar is of opinion that the contention is one which might be reasonably sustained, whether the Registrar would himself or herself sustain it or not, he or she shall so inform the liquidator and the contention shall thereupon be referred to the court and the liquidator shall act in accordance with the order of the court, provided, however, that, unless the court otherwise orders, the liquidator shall be entitled to his or her costs and expenses of the proceedings out of the assets of the corporation and, if prior to the contention being referred to the court, the liquidator certifies to the court that there is a doubt whether the assets of the corporation will be sufficient to satisfy such costs after providing for all other then known expenses and outgoings, the court shall not then proceed with the hearing until full security for such costs and expenses has been provided by the applicant and such security shall, to the extent to which the liquidator is unable to satisfy such costs and expenses from the assets of the corporation, answer for the same and in any event shall answer for the same in the first instance and the court may order the applicant to pay to the corporation the whole of the liquidator's costs and expenses or such part if it as it thinks fit, and may order the liquidator or the corporation to pay the whole of the applicant's costs or expenses or such part of it as it thinks fit.

199 Exercise and control of liquidator's powers

(1) Subject to the other provisions of this Act, the liquidator shall in the administration of the assets of the corporation and in the distribution amongst its creditors have regard to any directions given by the creditors or contributories at any meeting or otherwise in accordance with this Act.

(2) The liquidator may summon meetings of the creditors or contributories for the purpose of ascertaining their wishes, and he or she shall summon meetings at such times as the creditors or contributories by resolution direct or whenever requested in writing to do so by not less than one-tenth in value of the creditors or contributories and all such meetings shall be summoned and held in accordance with the Regulations, if any, made in that behalf.

(3) Subject to the provisions of this Act, the liquidator shall use his or her own discretion in the management of the affairs and property of the corporation and the distribution of its assets.

200 Payment by liquidator into bank

(1) Every liquidator shall pay the money received by him or her into the bank account opened by him or her for the purposes of his or her activities as

liquidator and, in so far as any regulations provide, shall do so in the manner and at the times and into the bank account so prescribed.

(2) For the purposes of this Section, ***"bank account"*** means such an account with a corporation or foreign corporation lawfully carrying on business as a commercial and trading bank in the Republic or with any corporation or institution carrying on such business outside the Republic and approved for the purposes of this Section by the Registrar.

[subs (2) insrt Act 1 of 1973 s 6, opn 26 Jan 1973]

201 Committees of inspection

Regulations may be made by the Cabinet relating to the appointment, constitution, powers, duties, remuneration and removal of committees of inspection and for the appointment, the removal and the substitution of the members.

202 Sale of property by liquidator other than for cash

(1) In any winding-up of any corporation the liquidator shall have power to sell, transfer or dispose of the business or property of the corporation in whole or in part in consideration of or in part consideration of the transfer, allotment or sale to him or her of shares, debentures, policies, choses in action or other like interests in other corporations or in another corporation for distribution amongst the members in the winding-up, without it being necessary for the liquidator to receive such number of such shares, debentures, policies, choses in action and the like as to permit of an exactly equal distribution amongst the members and the liquidator shall have power to transfer by way of distribution, some or all of such shares, debentures, policies, choses in action or the like to 2 or more members as tenants in common, and he or she may enter into any other arrangement whereby the members of the corporation may in lieu of receiving cash, shares, debentures, policies, choses in action or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from some other corporation or corporations, and any such transfer, sale, allotment or arrangement shall be binding on the members of the corporation:

Provided, however, that notice of the liquidator's intention in that behalf shall be given by him or her to such of the members of the corporation whose identities are known to him or her and, if within 21 days from the giving of such notice 25 per centum of those to whom notice has been given dissent from the course proposed, the liquidator shall either abstain from carrying out the course proposed or purchase the interest of the dissentients at a price to be determined by agreement or by the court.

(2) In entering into any contract with another corporation or other corporations for the sale of the whole or part of the business or property of the corporation in return for the transfer, allotment or sale of shares, debentures, policies, choses in action, or other like interests or for any right to participate in profits of such other corporation or corporations or to receive any other benefit from such other corporation or corporations, the liquidator may make the dissent of the said 25 per centum of members as aforesaid a condition precedent or a condition subsequent to the contract and in the absence of the expression of such a condition or in event of it

being doubtful whether such a condition is precedent or subsequent, there shall be imputed into the contract a condition precedent to the said effect.

203 Liquidator's books

Every liquidator shall keep proper books in which he or she shall cause to be made entries of minutes of proceedings at meetings and of resolutions by creditors or contributories and of such other matters as are prescribed and any creditor entitled to prove in the liquidation or any contributory may, with the approval of the Registrar, personally or by his or her agent inspect such books.

204 Liquidator's returns

Regulations may be made by the Cabinet prescribing what returns, accounts, reports and information shall be lodged with the Registrar by a liquidator and providing for the costs and fees of and incidental to the same to be paid or provided for.

205 Invoices, etc, of corporation in liquidation

(1) Where a corporation is being wound-up, every invoice, order for goods or business letter issued by or on behalf of the corporation or a liquidator of the same or a receiver or manager of the property of the corporation, being a document on or in which the name of the corporation appears, shall have the words "in liquidation" added after the name of the corporation where it first appears therein.

(2) Where default is made in complying with this Section, the corporation and every officer and liquidator of the corporation and every receiver or manager who knowingly and wilfully authorises or permits the default is guilty of an offence.

206 Books of liquidator and corporation

(1) Where a corporation is being wound-up or has been wound-up, all books and papers of the corporation and of the liquidator that are relevant to the affairs of the corporation at or subsequent to the commencement of the winding-up of the corporation shall, as between the contributories of the corporation, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

(2) Where a corporation has been wound-up, the liquidator shall retain the books and papers until its dissolution and shall thereupon deliver them to or at the direction of the Registrar.

(3) The Registrar may cause such books and papers to be destroyed after the expiration of 6 years from the commencement of the winding-up.

(4) No responsibility shall rest on the liquidator or the Registrar by reason of any book or paper of the corporation being mislaid or not being forthcoming to a person claiming to be interested therein.

207 Investment by liquidator

Whenever the cash balance standing to the credit of any corporation in liquidation is in excess of the amount which in the opinion of the liquidator is required for the time being to answer the demands in respect of the corporation,

the liquidator may invest the sum or any part of it in securities issued by the Republic or upon loan to any finance corporation administered or controlled by or on behalf of the Republic or by lending the same at interest, with or without security, to any approved borrower specified in regulations made under this Act from time to time.

208 Liquidator's expenses

(1) Unless expressly directed so to do by the court, a liquidator shall not be liable to incur any expense in relation to the winding-up of a corporation unless there are sufficient available assets to meet such expense.

(2) The court may on the application of a creditor or contributory, direct a liquidator to incur a particular expense on condition that the creditor or contributory indemnifies the liquidator in respect of the recovery of the amount expended and gives security to secure the amount of the indemnity in a form acceptable to the liquidator.

DIVISION 5 — DISSOLUTION

209 Dissolution

(1) As soon as the affairs of the corporation are fully wound-up, the liquidator shall, unless the winding-up is governed by Section 193, prepare an account showing how the winding-up has been conducted and the property of the corporation has been disposed of, and shall, unless the Registrar otherwise orders, send a copy of the account to each member of the corporation of whose name and address he or she is aware and, where the creditors of the corporation have not been paid in full or had their debts compromised, also to each creditor of whose name and address he or she is aware and shall lodge with the Registrar and, in the case of a compulsory winding-up, file in the court a copy of the account together with a statement of the date upon which it was despatched as aforesaid.

(2) On the expiration of 3 months after the lodging of the return with the Registrar, the corporation shall be dissolved.

(3) Notwithstanding the provisions of subsection (2), the Registrar or, in the case of a compulsory winding-up, the court may, on application by the liquidator, by any other person who appears to the Registrar or the court, as the case may be, to be interested or, in the case of a compulsory winding-up, by the Registrar, make an order deferring the date at which the dissolution of the corporation is to take effect for such time as the Registrar or the court, as the case may be, thinks fit but not exceeding 12 months and may, in special circumstances, extend the period upon further applications for further periods of not more than 6 months.

(4) Except where the applicant is the Registrar, the person on whose application an extension is granted under subsection (3) shall, within 14 days after the granting of the extension, lodge with the Registrar, a copy of the order of the Registrar or the court, as the case may be, which shall set forth the name of the applicant and of the corporation and the date upon which the extension was granted and the period for which it was granted and shall pay the prescribed fee and, if the applicant is not the liquidator, shall send a copy to the liquidator and in default thereof the extension shall

cease and the corporation shall forthwith be dissolved upon the date upon which it would have been dissolved if the order had not been made.

(5) Where an extension is granted upon the application of the Registrar, he or she shall forthwith note the order of the court upon his or her records relating to the corporation and shall send a copy to the liquidator.

(6) Upon the dissolution of a corporation the liquidator shall, unless the court upon the application of any interested person or of its own motion otherwise orders prior to the dissolution, be released from all claims by the contributories, the creditors and the corporation.

210 Accountability of liquidator

(1) The court may, if it sees fit, cause a report to be made on any accounts of the liquidator by an auditor appointed by the court for that purpose and pursuant to such report may issue a summons requiring the liquidator to appear before it and upon the hearing of such summons may make such order or give such directions as it thinks fit, including an order for the liquidator to make good any loss suffered by the corporation resulting from his or her wilful misconduct, wilful default or wilful neglect.

[subs (1) am Act 38 of 2018 s 38, opn 15 Jan 2019]

(2) When the liquidator has realised all the property of the corporation or so much of it as can in his or her opinion be realised without needlessly protracting the liquidation or incurring expense without sufficient warrant, and has distributed a final dividend, if any, to the creditors and adjusted the rights of the contributories amongst themselves and made a final return, if any, to the contributories, he or she may apply to the court:

(a) for a declaration that he or she be released; or

(b) for a declaration that he or she be released and that the corporation be dissolved.

(3) When the liquidator has resigned or been removed from his or her office he or she may apply to the court for a declaration that he or she has been released.

(4) Upon an application by a liquidator for a declaration that he or she be released, the court may in granting the application impose such terms and conditions as it thinks fit.

(5) The liability of an official liquidator shall be limited to liability for wilful misconduct, wilful default and wilful neglect.

(6) Upon being released, the liquidator shall cease to hold office.

(7) Where a liquidator is released under the provisions of this Section, a copy of the declaration releasing the liquidator shall, within 60 days after the making of it, be lodged by the liquidator with the Registrar.

DIVISION 6 — EFFECT ON OTHER TRANSACTIONS

211 Avoidance of preference: invalidity of floating charge

(1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any corporation unable to pay its debts as they become due from its own money in favour of any creditor, or of a person in trust for any creditor, with a view of giving such creditor, or any surety or guarantor

for the debt due to such creditor, a preference over the other creditors, shall, if the corporation making, taking, paying or suffering the same is wound-up on a petition presented, or in consequence of a special resolution passed under Section 189(1) or of a notice lodged under Section 190(1), within 3 months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the liquidator of the corporation.

(2) Subject to the provisions of subsection (1), nothing in this Act shall invalidate, in the case of a winding-up:

(a) any payment by the corporation to any of its creditors;

(b) any payment or delivery to the corporation;

(c) any conveyance or assignment by the corporation for valuable consideration; or

(d) any contract, dealing or transaction by or with the corporation for valuable consideration:

Provided that both the following conditions are complied with, namely:

(i) that the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the commencement of the winding-up; and

(ii) that the person, other than the corporation, to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of any act which if the corporation were a natural person would be an available act of bankruptcy or insolvency committed by the corporation before that time.

(3) A floating charge on the undertaking or property of a corporation created within 6 months of the commencement of the winding-up shall, unless it is proved that the corporation immediately after the creation of the charge was solvent, be invalid except to the amount of any cash paid to the corporation 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 5 per centum per annum.

212 Sales other than at proper value

(1) Where any property, business or undertaking has been acquired by a corporation for a cash consideration within a period of 2 years before the commencement of the winding-up of the corporation:

(a) from a person who was at the time of the acquisition a director of the corporation; or

(b) from a corpoation of which, at the time of the acquisition, a person was a director who was also a director of the first-mentioned corporation,

the liquidator may recover from the person or the corporation from which the property, business or undertaking was acquired any amount by which the cash consideration for the acquisition exceeded the value of the property, business or undertaking at the time of its acquisition.

(2) Where any property, business or undertaking has been sold by a corporation for a cash consideration within a period of 2 years before the commencement of the winding-up of the corporation:

(a) to a person who was at the time of the sale a director of the corporation; or

(b) to a corporation of which at the time of the sale a person was a director who was also a director of the corporation first mentioned in this subsection,

the liquidator may recover from the person or corporation to which the property, business or undertaking was sold any amount by which the value of the property, business or undertaking at the time of the sale exceeded the cash consideration.

(3) For the purposes of this Section, the value of the property, business or undertaking includes the value of any goodwill or profits which might have been made from the business or undertaking or similar consideration.

(4) In this Section,

"cash consideration" means any consideration payable otherwise than by the issue of shares.

213 Disclaimer of onerous property

(1) Where any part of the property of a corporation consists of:

(a) any estate or interest in land which is burdened with onerous covenants;

(b) shares or stocks in corporations;

(c) unprofitable contracts; or

(d) any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor to the performance of any onerous act or to the payment of any sum of money,

the liquidator of the corporation, notwithstanding that he or she has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relationship thereto, may, subject to this Section, by writing signed by him or her, at any time within 12 months after the commencement of the winding-up disclaim the property and shall forthwith send a copy to every person affected thereby of whom he or she has actual notice but 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 of disclaiming may be exercised at any time within 12 months after he or she has become aware.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the corporation, and the property of the corporation, in or in respect of the property disclaimed, but shall not, except so far as it is necessary for the purpose of releasing the corporation and the property of the corporation from liability, affect the rights or liabilities of any other person.

(3) The liquidator shall not be entitled to disclaim if an application in writing has been made to him or her by a person interested in the property requiring him or her to decide whether he or she will or will not disclaim and the liquidator has not, within the period of 2 months after the receipt of the application, given notice to the applicant that he or she intends to disclaim and, in the case of a contract, if the liquidator after such an application in writing does not within that period or further period disclaim the contract, the liquidator shall be deemed to have adopted it.

(4) Any interested person aggrieved by any disclaimer by the liquidator under this Section may, within 60 days of the signature of that disclaimer, apply

to the court to have the disclaimer set aside and, if the court so orders, the disclaimer shall be set aside and shall be void *ab initio*.

(5) A party to a contract with the corporation, which contract has not been disclaimed by the liquidator, may, either with or without requiring the liquidator to elect whether he or she disclaims the contract, require the liquidator to state whether he or she intends to endeavour to perform the contract so far as the same remains to be performed on the part of the corporation and, in the event of the liquidator failing to state within 2 months after receipt of a notice by him or her requiring him or her so to do that he or she so intends, that party may, with the consent of all other parties, if any, other than the liquidator, without being liable in damages for rescission of the contract, rescind the contract and any amount recoverable by the corporation pursuant to such rescission may be thereupon recovered by the liquidator from the other party or parties and any amount recoverable from the corporation pursuant to such rescission may be proved for in the winding-up by such other party or parties, provided however that a liquidator shall not become personally liable for the performance of the contract by reason only that he or she states whether or not he or she proposes to endeavour to perform it, unless he or she makes such statement fraudulently.

(6) Upon application by a person interested in any property the subject of a disclaimer, the court may make an order vesting the property in the person entitled thereto subject to such terms and conditions, if any, as it thinks fit.

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DIVISION 7 — OFFENCES

214 Offences by officers of corporations in liquidation

(1) Every person who, being a past or present officer of a corporation which is being wound-up:

(a) does not to the best of his or her knowledge and belief fully and truly discover to the liquidator all the property real and personal of the corporation and how and to whom and for what consideration and when the corporation disposed of any part, except such part as has been disposed of in the ordinary way of the business of the corporation;

(b) does not deliver up to the liquidator or as he or she directs:

(i) all the real and personal property of the corporation in his or her custody or under his or her control and which he or she is required by law to deliver up; or

(ii) all books and papers in his or her custody or under his or her control belonging to the corporation and which he or she is required by law to deliver up;

(c) within the 6 years next before the commencement of the winding-up or at any time thereafter:

(i) has concealed any part of the property of the corporation to the value of 50 or upwards, or has concealed any debt due to or from the corporation;

(ii) has fraudulently removed any part of the property of the corporation to the value of 50 or upwards;

(iii) has concealed, destroyed, mutilated or falsified, or has been privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the corporation;

(iv) has made or has been privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the corporation;

(v) has fraudulently parted with, altered or made any omission in, or has been privy to parting fraudulently with, altering or making any omission in, any document affecting or relating to the property or affairs of the corporation;

(vi) by any false representation or other fraud, has obtained any property for or on behalf of the corporation on credit which the corporation has not subsequently paid for;

(vii) has obtained on credit, for or on behalf of the corporation, under the false pretence that the corporation is carrying on its business or has a current certificate of incorporation, any property which the corporation has not subsequently paid for; or

(viii) has pawned, pledged or disposed of any property of the corporation which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing was in the ordinary way of the business of the corporation;

(d) wilfully makes any material omission in any statement relating to the affairs of the corporation;

(e) knowing or believing that a false debt has been proved by a person fails for a period of one month to inform the liquidator;

(f) prevents the production of any book or paper affecting or relating to the property or affairs of the corporation;

(g) within the 6 years next before the commencement of the winding-up or at any time thereafter has attempted to account for any part of the property of the corporation by making entries in the books of the corporation showing fictitious losses or expenses; or

(h) within the 6 years next before the commencement of the winding-up or at any time thereafter has been guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the corporation or any of them to an agreement with reference to the affairs of the corporation or to the winding-up,

is guilty of an offence.

(2) It shall be a good defence to a charge under subsection (1)(a), (b), (c)(i), (c)(vii) or (c)(viii) or (d), if the accused proves that he or she had no intent to defraud and to a charge under subsection (1)(c)(iii) or (c)(iv) or (f), if he or she proves that he or she had no intent to conceal the state of affairs of the corporation or to defeat the law.

(3) Where a person pawns, pledges or disposes of any property in circumstances which amount to an offence under subsection (1)(c)(viii) every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in those circumstances is guilty of an offence.

(4) A person who within the Republic offers any shares or debentures to the public or to any member of the public, not being a corporation, for subscription or purchase is guilty of an offence unless the Minister has given prior consent in writing to his or her doing so.

(5) Every person who in any return, report, certificate, balance sheet or other document required by or for the purposes of this Act, wilfully makes a statement false in any material particular knowing it to be false is guilty of an offence.

215 Frauds by officers

Every person who, while an officer of a corporation which is subsequently wound-up:

(a) has by false pretences or by means of any other fraud induced a person to give credit to the corporation;

(b) with intent to defraud creditors of the corporation 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 corporation; or

(c) with intent to defraud creditors of the corporation has concealed or removed any part of the property of the corporation since or within 2 months before the date of any unsatisfied judgment or order for payment of money obtained against the corporation,

is guilty of an offence.

216 Liability where proper accounts not kept or debts incurred without reasonable expectation of payment

(1) Where a corporation is wound-up and it is shown that proper books of account were not kept by the corporation throughout the period of 2 years

immediately preceding the commencement of the winding-up or the period between the incorporation of the corporation and the commencement of the winding-up whichever is the shorter, every officer who is in default is, unless he or she acted honestly and shows that in the circumstances in which the business of the corporation was carried on the default was excusable, guilty of an offence.

(2) For the purposes of this Section, proper books of account shall be deemed not to have been kept in the case of any trading corporation 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 trading corporation, 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 in sufficient detail to enable those goods and those buyers and sellers to be identified or if such books or accounts have not been kept in such manner as to enable them to be conveniently and properly audited.

(3) An officer or former officer of any corporation which is being, or has been, wound-up who was knowingly a party to the contracting of a debt provable in the winding-up and had, at the time the debt was contracted, no reasonable or probable ground of expectation, after taking into consideration the other liabilities, if any, of the corporation being able to pay the debt, is guilty of an offence.

217 Personal liability for debts

A person who is knowingly a party to the carrying on of the business of a corporation with intent to defraud creditors shall be guilty of an offence and shall be personally liable for the debts of the corporation.

DIVISION 8 — DEFUNCT CORPORATIONS

218 Defunct corporations

(1) Where the Registrar has reasonable cause to believe that a corporation, being a trading corporation, is not carrying on business or is not in operation or being a holding corporation is not in operation or, in the case of either kind of corporation, is not the holder of a current certificate of incorporation, he or she may send to the corporation by prepaid registered post addressed to the registered office of the corporation a letter to that effect and stating that if an answer showing cause to the contrary is not received within 2 months from the date of it the Registrar will strike the name of the corporation off the register.

(2) At the expiration of the time mentioned in the notice, or such further time as to the Registrar seems fit, he or she may, unless cause to the contrary is previously shown, strike the name of the corporation off the register and the corporation shall be thereupon dissolved; but

(a) the liability, if any, of every officer and member of the corporation shall continue and may be enforced as if the corporation had not been dissolved; and

(b) nothing in this subsection shall affect the liability of the corporation to be wound-up pursuant to the provisions of this Act.

(3) Where such statutory return and documents as the Registrar may direct have been lodged and the prescribed costs and fees paid, upon application in the prescribed form the Registrar may, if he or she is satisfied that no person will be prejudiced and that due cause has been shown, restore to the register the name of a corporation which has been struck off but such restoration shall be made only upon payment of all costs, fees, charges and any arrears to the Registrar and to all other persons who would have been entitled to receive them if the corporation had not been struck off.

(4) Where costs, charges or fees or arrears, if any, are paid under subsection (3) in respect of any corporation which is being wound-up, such costs, charges, fees and arrears shall be deemed to be costs of the liquidation.

(5) Notwithstanding the provisions of subsections (l) and (2), where a corporation, or an officer of a corporation, notifies the Registrar in writing that the corporation does not intend to renew the certificate of incorporation of the corporation, the Registrar may, when the period of validity of the most recent certificate of incorporation has expired, forthwith strike the name of the corporation off the register without having given to the corporation any notice of his or her intention to do so and the striking-off of the name of the corporation shall be deemed to have been done under subsection (2).

[subs (5) insrt Act 14 of 1975 s 8, opn 20 Nov 1975]

219 Registrar to act as representative of defunct corporation in certain events

(1) Where after a corporation has been dissolved, it is proved to the satisfaction of the Registrar:

(a) that the corporation, if still existing, would be legally or equitably bound to carry out, complete or give effect to some dealing, transaction or matter; and

(b) that in order to carry out, complete or give effect thereto some purely administrative act, not discretionary, should have been done by or on behalf of the corporation, or should be done by or on behalf of the corporation if still existing,

the Registrar may as representing the corporation or its liquidator under the provisions of this Section do or cause to be done any such act.

(2) The Registrar may execute or sign any relevant instrument or document adding a memorandum stating that he or she has done so in pursuance of this Section, and such execution or signature shall have the same force, validity and effect as if the corporation if existing had duly executed such instrument or document.

220 Outstanding assets of defunct corporation to vest in Registrar

(1) Where, after a corporation has been dissolved, there remains any outstanding property, real or personal, including things in action, and whether within or outside the Republic which was vested in the corporation or to which it was entitled, or over which it had a disposing power at the time it was so dissolved, but which was not got in, realised upon or

otherwise disposed of or dealt with by the corporation or its liquidator, such property except uncalled capital shall, for the purposes of the following subsections and notwithstanding any written law or rule of law to the contrary, by the operation of this Section be and become vested in the Registrar for all the estate and interest therein, legal or equitable, of the corporation or its liquidator at the date the corporation was dissolved, together with all claims, rights and remedies which the corporation or its liquidator then had in respect of it.

(2) The Registrar may sell or otherwise dispose of or deal with such property either solely or in concurrence with any other person who may have an interest in the same in such manner, for such consideration and upon such terms and conditions as he or she thinks fit with power to rescind any contract and resell or otherwise dispose of or deal with such property as he or she thinks expedient and may make, execute, sign and give such contracts, instruments and documents as he or she thinks necessary.

(3) The monies received by the Registrar in the exercise of any of the powers conferred on him or her by this Section, shall be applied first in defraying all costs, expenses, fees and commissions incidental thereto and thereafter shall be paid into the Treasury Fund.

(4) Any action for or in respect of any monies paid into the Treasury Fund under the provisions of this Section, shall be against the Registrar as the nominal defendant and shall be instituted within 6 years next after the dissolution of the corporation after which time no such action shall be instituted and the claim shall be absolutely barred.

DIVISION 9 — WINDING-UP OF UNREGISTERED CORPORATIONS

221 Unregistered corporations

For the purposes of this Division, ***"unregistered corporation"*** includes:

(a) a foreign corporation or company;

(b) any partnership or association consisting of more than 5 members; and

(c) with effect from the expiration of a period of 1 year from the commencement of this Act, a company incorporated under the *Companies Ordinance 1912* which has failed to register under this Act,

but does not include a corporation incorporated or registered under this Act or created by any statute of the Republic except the *Companies Ordinance 1912* or a foreign corporation or company registered under this Act.

222 Winding-up of unregistered corporations

(1) Subject to this Division, any unregistered corporation may be wound-up in any circumstances in which a corporation may be wound-up and also if it is being wound-up or has been wound-up or dissolved or has otherwise ceased to exist in any other place in which it has, or had, a residence or carries, or carried, on business or is incorporated or if it is dissolved or has ceased to have a place of business in the Republic or has a place of business in the Republic only for the purpose of winding-up its affairs, or the circumstances are such that, if it were a corporation incorporated under this Act, the Registrar would be entitled to give notice requiring cause to be shown why its name should not be struck from the Register of Corporations.

(2) No unregistered corporation shall be wound-up voluntarily.

(3) The provisions of this Act relating to the winding-up of corporations, and the provisions of any regulations relating thereto, shall *mutatis mutandis* apply to the winding-up of an unregistered corporation.

(4) A corporation incorporated outside the Republic may be wound-up as an unregistered corporation notwithstanding that it is being wound-up or has been wound-up or dissolved or has otherwise ceased to exist as a corporation under or by virtue of the laws of the place where it was incorporated or under or by virtue of the laws of any other place in which it has a residence.

223 Contributories in winding-up

(1) On an unregistered corporation being wound-up every person shall be a contributory:

(a) who is liable to pay or contribute to the payment of:

(i) any debt or liability of the corporation;

(ii) any sum for the adjustment of the rights of the members among themselves; or

(iii) the costs and expenses of the winding-up; or

(b) where the corporation has been dissolved in the place in which it is formed or incorporated who immediately before the dissolution was so liable,

and every contributory shall be liable to contribute to the assets of the corporation all sums due from him or her in respect of any such liability.

(2) On the death, bankruptcy or insolvency of any contributory the provisions of this Act with respect to the personal representatives of deceased contributories and the assignees and trustees of bankrupt or insolvent contributories respectively shall apply.

[The next page is 33,001]

224 Interpretation

(1) This Part applies to a foreign corporation only if it has a place of business or is carrying on business within the Republic.

(2) ***"carrying on business"*** includes:

(a) establishing or using a share transfer or share registration office or administering, managing or otherwise dealing with property situate in the Republic as an agent, legal personal representative or trustee, whether by servants or agents or otherwise; and

(b) in the case of a foreign corporation in respect of which the Minister has by notice in the Gazette so specified, suffering or permitting the corporation's own shares to be dealt with, issued, transferred or made the subject of options or agreements within the Republic or permitting or suffering dealings, transfers or agreements to sell or purchase or options in respect of securities, notes or rights issued by it to the public, or by reason of which the public might acquire an interest in the corporation, to be made within the Republic, and ***"to carry on business"*** has a corresponding meaning.

(3) Notwithstanding subsection (2), a foreign corporation shall not be regarded as carrying on business within the Republic by reason only of the fact that within the Republic, it:

(a) is or becomes a party to any action or suit or any administrative or arbitration proceeding or effects settlement of an action suit or proceeding or of any claim or dispute; or

(b) conducts one isolated transaction that is completed within a period of 31 days, not being one of a number of similar transactions repeated more than once.

(4) A foreign corporation shall not have a place of business in the Republic or carry on business in the Republic for longer than one month unless it is registered as a foreign corporation under this Part and a foreign corporation and every officer which acts or who permits the foreign corporation to act in contravention of this subsection is guilty of an offence.

(5) A foreign corporation contravening subsection (4), shall be liable to be wound-up under this Act as an unregistered corporation.

(6) A foreign corporation shall not carry on in the Republic any business which a corporation incorporated under this Act may not carry on.

(7) The Minister may by notice in the Gazette order that any foreign corporation be restricted from carrying on any specified business within the Republic and may by notice in the Gazette impose conditions subject to which any specified business may be carried on by a foreign corporation within the Republic.

225 Documents, etc, to be lodged by foreign corporations

(1) Every foreign corporation shall, within one month after it establishes a place of business or commences to carry on business within the Republic, lodge with the Registrar for filing:

(a) a certified copy of the certificate of its incorporation or registration in its place of incorporation or origin or a document of similar effect;
(b) a certified copy of its charter, statute or memorandum and articles or other instrument constituting or defining its constitution;
(c) a list of its directors and officers containing similar particulars with respect to its directors as are by this Act required to be contained in the register of the directors and secretaries of a corporation incorporated under this Act;
(d) where a list includes directors resident in the Republic who are members of the local board of directors, a memorandum duly executed by or on behalf of the foreign corporation stating the powers of the local directors;
(e) a memorandum of appointment or power of attorney under the seal of a foreign corporation or executed on its behalf in such manner as to be binding on the corporation and, in either case, verified in the prescribed manner, stating the name and address;
(f) notice of the situation of its registered office in the Republic;
(g) a declaration in the prescribed form setting out particulars of its authorised capital; and
(h) Section 134 in its entirety will apply to foreign corporations,

and the Registrar shall register the corporation under this Part by filing the documents.

[subs (1) am Act 21 of 2016 s 24, opn 12 May 2016; Act 38 of 2018 s 39, opn 15 Jan 2019]

(2) Where a memorandum of appointment or power of attorney lodged with the Registrar in pursuance of subsection (1)(e) is executed by a person on behalf of the corporation, a copy of the deed or document by which that person is authorised to execute the memorandum of appointment or power of attorney, verified by statutory declaration in the prescribed manner, shall be lodged with the Registrar and the copy shall for all purposes be regarded as an original.

(3) Every foreign corporation shall have a registered office in the Republic and the name of the corporation shall be displayed outside the place where the registered office is situate and such office shall be open to the public for at least 2 hours each day between the hours of 8 a.m. and 5 p.m. Monday to Friday except upon a day which is a public holiday in the Republic.

(4) [subs (4) rep Act 38 of 2018 s 39, opn 15 Jan 2019]

(5) [subs (5) rep Act 38 of 2018 s 39, opn 15 Jan 2019]

(6) [subs (6) rep Act 38 of 2018 s 39, opn 15 Jan 2019]

(7) On the registration of a foreign corporation under this Part or the lodging with the Registrar of particulars of a change or alteration in a matter referred to in Section 226(1)(c), (d) or (f) and on payment of the prescribed fee, the Registrar shall issue a certificate in the prescribed form under his or her hand and seal which certificate shall be *prima facie* evidence in all courts of the particulars mentioned in the certificate and shall be valid for a period of 12 months from the date of issue and shall on payment of the prescribed fee be renewable from time to time for further periods of 12 months and the provisions of Section 15(4), (5) and (6) shall apply *mutatis mutandis*.

226 Return to be lodged where documents, etc, altered

(1) Where any change or alteration is made in:
(a) the charter, statute, memorandum or articles of the foreign corporation or other instrument lodged with the Registrar;
(b) the directors of the foreign corporation;
(c) the agent or agents of the foreign corporation or the address of any agent;
(d) the situation of the registered office of the foreign corporation in the Republic;
(e) the address of the registered office of the foreign corporation in its place of incorporation or origin;
(f) the name of the foreign corporation; or
(g) the powers of any directors resident in the Republic who are members of the local board of directors of the foreign corporation,

the foreign corporation shall within one month after the change or alteration lodge with the Registrar particulars of the change or alteration and such documents as the regulations require.

(2) Where a foreign corporation increases its authorised share capital it shall, within one month after such increase, lodge with the Registrar notice of the amount from which and of the amount to which it has been so increased.

(3) Where a foreign corporation not having a share capital increases the number of its members beyond the registered number it shall, within one month after the increase was resolved on or took place, lodge with the Registrar notice of the increase.

227 Service on foreign corporations

Subject to any written law relating to the service of process in criminal causes, any document required to be served on a foreign corporation, shall be sufficiently served:
(a) if addressed to the foreign corporation and left at or sent by post to its registered office in the Republic; or
(b) if addressed to an agent of the corporation and left at or sent by post to his or her registered address in the Republic.

228 Cesser of business in the Republic

Where a foreign corporation ceases to have a place of business or to carry on business in the Republic it shall within 7 days after so ceasing lodge with the Registrar notice of that fact, and as from the day on which the notice is so lodged its obligation to lodge any document, not being a document that ought to have been lodged before that day, with the Registrar shall cease, and the Registrar shall forthwith remove the name of that foreign corporation from the register.

229 Foreign liquidation

(1) Where a foreign corporation goes into liquidation or is dissolved in its place of incorporation or origin:
(a) the corporation or, where the corporation has been dissolved, the person in whom the assets of the corporation vest by virtue of the law of that place pursuant to the liquidation or dissolution shall, within one

month after the commencement of the liquidation or dissolution or within such further time as the Registrar in special circumstances allows, lodge or cause to be lodged with the Registrar notice of that fact and, when a liquidator is appointed, notice of such appointment;

(b) the Registrar shall forthwith appoint a liquidator for Naoero and, until the winding-up of its affairs in the Republic is completed, the foreign corporation shall be deemed to continue to exist in the Republic; and

(c) the court shall be deemed to have ordered that it be wound-up.

[subs (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The liquidator for the Republic so appointed shall get in all the assets of the foreign corporation situate in or recoverable in the Republic and shall, in so doing, have all the powers of a liquidator of a corporation incorporated in the Republic.

(3) Before paying, or transferring, to the foreign liquidator any of the assets got in within the Republic the liquidator shall:

(a) pay to the Republic or the Registrar all penalties, costs, fees and charges due and owing; and

(b) pay to a person resident in the Republic to whom at the time of the appointment of the liquidator in the Republic any debt was due, incurred bona fide by the foreign corporation in respect of the supply of services to or for the foreign corporation, the amount of such debt:

Provided that the liquidator shall not pay to anyone person a sum exceeding $500 under the provisions of this paragraph,

and it is hereby enacted that such penalties, costs, fees, charges and debts payable by the liquidator under the provisions of this subsection are a charge upon the assets of the foreign corporation ranking after the costs of the liquidator appointed by the Registrar but in priority to all other charges and claims whatsoever.

(4) The provisions of this Act relating to the striking off from the register of the names of trading corporations shall, with such adaptations as are necessary, extend and apply to foreign corporations.

230 Names of foreign corporations

(1) The restrictions upon the registration of names of corporations shall *mutatis mutandis* apply to the registration of foreign corporations.

(2) Where a foreign corporation is registered, either in error or otherwise, with a name with which it should not have been registered, the Registrar may, upon one month's notice to the foreign corporation requiring it to change its name, strike the corporation from the register upon default in its so doing.

(3) No foreign corporation shall use in the Republic or elsewhere by reference to acts done or to be done in the Republic, any name other than that under which it is registered under this Part and every foreign corporation and every officer of the corporation who knowingly authorises or permits the default is guilty of an offence.

231 Returns by foreign corporations

Regulations may be made prescribing the registers and returns to be kept and made by foreign corporations and fixing the times within which the same shall be kept and made and the fees and charges payable.

[The next page is 33,201]

232 Service of documents on corporations

Subject to any written law relating to the service of process in criminal cases, any document may be served on a corporation by leaving it at or sending it by post to the registered office of the corporation.

232A Continuation outside the Republic of corporation incorporated under this Act

(1) A corporation incorporated under this Act may, upon obtaining the approval of the Minister and within 2 months from the date on which that approval is obtained apply to the proper officer of a country other than the Republic, or of a jurisdiction within such a country, by the laws of which such continuation is authorised for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other country or jurisdiction and on and after the date of the instrument of continuation the corporation shall become a corporation under the laws of that country or jurisdiction and be domiciled therein.

[subs (1) am Act 14 of 1975 s 9, opn 20 Nov 1975]

(2) A corporation shall not apply to the Minister for approval under subsection (1), unless:

(a) such application is authorised by:

(i) where any shares of the corporation are in existence, holders of not less than three-quarters of such shares of each class; and

(ii) the holders of not less than three-quarters of the corporation's debentures, if any, of each class;

(b) the corporation, not less than 28 days before applying to the Minister for such approval, has published in the Gazette a notice of its intention to make the application; and

(c) it lodges with the Minister an affidavit sworn by a director of the corporation in which are set out the names and addresses of its creditors and the total amount of its indebtedness to creditors.

(3) The Minister shall not give his or her approval to a corporation applying for its continuation in another country or jurisdiction unless he or she is satisfied that:

(a) the requirements of subsection (2) have been complied with;

(b) the intended transfer of domicile is unlikely to be detrimental to the rights or proper interests of any of the corporation's members, debenture-holders or creditors; and

(c) the corporation has not failed to comply with any provision of this Act with which it should have complied,

and may make his or her approval conditional upon such provision as he or she thinks necessary being made by the corporation to safeguard the rights and proper interests of any member, debenture-holder or creditor of the corporation or any class of such members, debenture-holders or creditors or upon the corporation taking such steps as he or she considers necessary to remedy any failure to comply with any provision of this Act.

(4) Upon an instrument of continuation continuing the corporation in another country or jurisdiction being executed by the proper officer of that other country or jurisdiction, the corporation shall forthwith notify the Registrar of the details and the corporation shall be deemed to have ceased to be a corporation incorporated in the Republic from the date when its continuation in that other country or jurisdiction takes effect, and the Registrar shall remove its name from his or her register:

Provided that nothing in this subsection shall:

(a) prevent such a corporation from being registered in the Republic as a foreign corporation at any time after it has ceased to be a corporation incorporated in the Republic; or

(b) take away or affect the jurisdiction of any court in the Republic to hear and determine any proceedings commenced therein by or against the corporation before it ceased to be a corporation incorporated in the Republic.

(5) Where a corporation notifies the Registrar under subsection (4) that an instrument of continuation continuing the corporation in another country or jurisdiction has been executed by the proper officer of the other country or jurisdiction and that notification is false, then, notwithstanding that the Registrar has removed the name of the corporation from the register in pursuance of the provisions of that subsection:

(a) the liability, if any, of every officer and member of the corporation shall continue and may be enforced as if the corporation were still registered under this Act; and

(b) the corporation shall be liable to be wound-up pursuant to the provisions of this Act as if it were still registered under this Act.

[subs (5) insrt Act 14 of 1975 s 9, opn 20 Nov 1975]

(6) For the purposes of this Section:

(a) a person who has, in the Republic or elsewhere, commenced proceedings against a corporation, other than proceedings to recover a debt alleged to be owed by the corporation to the taxation or revenue authority of any country or jurisdiction, or has counterclaimed against a corporation in proceedings commenced by the corporation, shall be deemed to be a creditor of the corporation; and

(b) no person shall be deemed to be a creditor of a corporation in respect of any debt owed, or alleged to be owed, to the taxation or revenue authority of any country or jurisdiction.

[subs (5) renum as subs (6) Act 14 of 1975 s 9, opn 20 Nov 1975]

[s 232A insrt Act 1 of 1973 s 7, opn 26 Jan 1973]

233 Costs before Registrar

In respect of any proceedings before the Registrar under the provisions of this Act, he or she may at his or her own discretion, direct that the costs of one party be paid in such amount and by such other party as he or she thinks just.

234 Security for costs

Where a corporation or a foreign corporation is a plaintiff in any action or other legal proceedings the court having jurisdiction in the proceedings, or a Judge or magistrate, may, if it appears by credible testimony that there is reason to believe that the corporation or foreign corporation will be unable to pay the

costs of the defendant if he or she is successful in his or her defence, require sufficient security to be given for those costs and stay all proceedings until the security is given.

235 Disposal of shares of shareholder whose whereabouts are unknown

(1) Where by the exercise of reasonable diligence a corporation is unable to discover the whereabouts of a registered shareholder for a period of not less than 10 years the corporation may cause an advertisement to be published in a daily newspaper circulating in the place shown in the register of members as the address of the shareholder stating that the corporation after the expiration of one month from the date of the advertisement intends to transfer the shares to the Registrar.

(2) Where after the expiration of one month from the date of the advertisement the whereabouts of the shareholder remain unknown, the corporation may transfer the shares held by the shareholder in the corporation to the Registrar and for that purpose may execute for and on behalf of the owner a transfer of those shares to the Registrar.

(3) The Registrar shall sell or dispose of any shares so received in such manner and at such time as he or she thinks fit and shall deal with the proceeds of the sale as if they were monies paid to him or her pursuant to the provisions of this Act relating to unclaimed monies.

236 Power to grant relief

(1) In any proceeding for negligence, default, breach of duty or breach of trust against a person to whom this Section applies, if it appears to the court before which the proceedings are taken that he or she is or may be liable in respect of it but that he or she has acted honestly and reasonably and that, having regard to all the circumstances of the case including those connected with his or her appointment, he or she ought fairly to be excused for the negligence, default or breach, the court may relieve him or her either wholly or partly from his or her liability on such terms as the court thinks fit.

(2) Where a person to whom this Section applies has reason to apprehend that any claim will or might be made against him or her in respect of any negligence, default, breach of duty or breach of trust he or she may apply to the court for relief, and the court shall have the same power to relieve him or her as under this Section it would have had if it had been a court before which proceedings against him or her for the negligence, default, breach of duty or breach of trust had been brought.

(3) The persons to whom this Section applies are:
- (a) officers of a corporation;
- (b) persons employed by a corporation as auditors, whether they are or are not officers of the corporation;
- (c) experts within the meaning of this Act; and
- (d) a persons who are receivers, receivers and managers or liquidators appointed or directed by the court or the Registrar to carry out any duty under this Act in relation to a corporation and all other persons so appointed or so directed.

237 Irregularities in proceedings

(1) No proceeding under this Act shall be invalidated by any defect, irregularity or deficiency of notice or time unless the court or the Registrar is of opinion that substantial injustice has been or may be caused thereby which cannot be remedied by any order of the court or the Registrar.

The court or the Registrar may, if it or he or she thinks fit, make an order declaring that such proceeding is valid notwithstanding any such irregularity or deficiency.

(2) Without affecting the generality of subsection (1) or of any other provision of this Act, where any omission, defect, error or irregularity, including the absence of a quorum at any meeting, has occurred in the management or administration of a corporation whereby any breach of any of the provisions of this Act has occurred, or whereby there has been default in the observance of the memorandum or articles of the corporation or whereby any proceedings at or in connection with any meeting or purported meeting have been rendered ineffective, including the failure to make or lodge any declaration of solvency pursuant to Section 191, the court or the Registrar:

(a) may, either of its or his or her own motion or on an application lodged by any interested person, make such order as it or he or she thinks fit to rectify or cause to be rectified or to negative or modify or cause to be negatived or modified the consequences in law of any such omission, defect, error or irregularity, or to validate any act, matter or thing rendered invalid by or as a result of any such omission, defect, error or irregularity;

(b) shall before making any such order satisfy itself or himself or herself that such an order would not do injustice to the corporation or to any member or creditor;

(c) where any such order is made, may give such ancillary or consequential directions as it or he or she thinks fit;

(d) may determine what notice or summons is to be given to other persons of the intention to make any such application or of the intention to make such an order, and whether and how it should be given or served and whether it should be advertised in any newspaper; and

(e) for the purpose of this subsection, ***"meeting"*** includes:

(i) a meeting of the corporation;

(ii) a meeting of any class of members of the corporation;

(iii) a meeting of the debenture holders or any class of debenture holders of the corporation;

(iv) a meeting of the directors of the corporation or of any committee of the directors; and

(v) a meeting of the creditors or any class of the creditors of the corporation.

(3) The court or the Registrar, whether the corporation is in process of being wound-up or not, may enlarge or abridge any time for doing any act or taking any proceedings allowed or limited by this Act or any regulations hereunder upon such terms, if any, as the justice of the case may require and any such enlargement may be ordered although the application for the same is not made until after the time originally allowed or limited.

238 Translation of instruments

(1) Where under this Act a corporation is required to lodge with the Registrar any instrument, certificate, contract or document or a certified copy and the same is not written in the English language, the corporation shall lodge at the same time with the Registrar a certified translation.

(2) Where under this Act a corporation is required to make available for public inspection any instrument, certificate, contract or document and the same is not written in the English language, the corporation shall keep at its registered office in the Republic a certified translation.

(3) For the purpose of this Section, a

"certified translation" means a translation into the English language certified as a correct translation by the translator and bearing a certificate in the English language by a diplomatic or consular officer of the Republic or of the Commonwealth of Australia, of New Zealand or of the United Kingdom or by a person before whom by any law of the Republic affidavits may lawfully be sworn for use in proceedings in any court of the Republic.

239 Dividends payable from profits only

No dividend shall be payable to any shareholder of any corporation except out of profits, including capital profits, or in pursuance of Section 60.

240 Use of word "corporation", etc

A person who carries on business under any name or title of which "corporation" or "incorporated" or any abbreviations is the final word is, unless it is a corporation or foreign corporation duly created, incorporated or registered under this Act or any other written law, guilty of an offence.

241 General penalty provisions

(1) A person, who fails to comply with the requirements of this Act is liable to a fine not exceeding $1,000.

(2) A person who commits an offence against Sections 6, 42, 63, 95, 119, 134, 147, 148 and 214, is liable upon conviction to a fine not exceeding $5,000 and to a term of imprisonment for 6 months in respect of each offence.

(3) A person who commits an offence against Sections 33, 40, 107, 215 and 216 is liable upon conviction to a fine not exceeding $10,000 and to a term of imprisonment for 12 months in respect of each offence.

[s 241 subst Act 44 of 2016 s 5, opn 8 Sep 2016]

242 Procedure where none laid down

In the event that any act or step is required or permitted to be done under this Act and no form is prescribed or procedure laid down in this Act or the Regulations for doing the same, application may be made to the Registrar for directions as to the manner in which the same may be done and any act or step done or taken in accordance with his or her directions shall be a valid performance of such act or step.

242A Information sharing

(1) Subject to subsection (2), the Registrar may provide any information including any copy of a document, account or record that the Registrar has obtained under this Act to:

(a) a law enforcement or regulatory agency, whether in the Republic or in a foreign jurisdiction for the purposes of carrying out the agency's duty, power or function;
(b) the competent authority of a foreign government with which the Republic has entered into an agreement providing for the exchange of information to the extent permitted under that agreement; and
(c) any treaties or agreements entered into by the Republic for the purposes of exchange of information.

(2) For information sharing under subsection (1), the Registrar shall ensure that necessary protections are in place for maintaining the confidentiality of the information.

[s 242A insrt Act 38 of 2018 s 40, opn 15 Jan 2019]

243 Regulations

(1) Regulations may be made by the Cabinet prescribing all matters and things required or authorised by this Act to be prescribed or provided or which are necessary or convenient to be prescribed or provided for carrying out or giving effect to this Act and in particular for prescribing penalties for breaches of the regulations.

(2) Regulations may be made by the Cabinet fixing and prescribing the fees to be paid under this Act and may be made delegating the power of fixing such fees to prescribed persons or bodies and such regulations may also provide for the rebate or refund of a portion of the fees payable or paid by corporations which are Naoero corporations.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

244 Rules of court

The Chief Justice may make rules of court concerning the mode of proceedings to be had for winding-up a corporation or foreign corporation in the court and for giving effect to the other provisions of this Act by which jurisdiction is conferred on the Supreme Court or the District Court.

245 Appeals

(1) An appeal shall lie to the Supreme Court in respect of any decision, order or approval made, given or refused by the Registrar in exercise of his or her powers under any one or more of the Sections, subsections, paragraphs and subparagraphs of this Act specified hereunder:
(a) Section 21(1);
(b) Section 34;
(c) Section 35;
(d) Section 63(1);
(e) Section 63(2)(b);
(f) Section 63(2)(c)(ii);
(g) Section 63(3);
(h) Section 64;
(i) Section 75;
(j) Section 97;
(k) Section 103;
(l) Section 147;

(m) Section 149;
(n) Section 157;
(o) Section 198;
(p) Section 218; and
(q) Section 237.

(2) Pending the determination of an appeal brought under the provisions of subsection (1), no step shall be taken consequentially upon such decision, order, approval or refusal unless the Supreme Court or a Judge or, if no Judge is present in the Republic, the Registrar of Courts otherwise orders.

(3) An appeal shall lie to the Supreme Court in respect of any order of the District Court made in exercise of its jurisdiction and powers under the provisions of any one or more of the Sections specified hereunder:
(a) Section 147;
(b) Section 149;
(c) Section 163;
(d) Section 167;
(e) Section 168;
(f) Section 169;
(g) Section 179;
(h) Section 213(6); and
(i) Section 237.

(4) Save with the leave of a Judge, a petition of appeal shall not be filed more than 21 days after the date of the decision, order, approval or refusal of the Registrar or the order of the court, as the case may be, to which the petition relates.

246 Power of exemption

(1) The Minister may of his or her own motion or pursuant to an application in writing lodged with the Registrar by any corporation or foreign corporation duly incorporated or registered under the provisions of this Act, by any other foreign corporation or by any unregistered or unincorporated body exempt such corporation or body from all or any part of the provisions of this Act and may impose such terms and conditions as he or she thinks fit as a condition under which such exemption is granted and an exemption granted under this subsection may be revoked by the Minister at any time for good cause.

(2) In dealing with an application under this Section the Minister shall not be required to act judicially and his or her decision shall in all cases be final.

247 Prohibitions by Cabinet

(1) The Cabinet shall have an absolute right of its own motion or otherwise and without assigning reasons to make an order:
(a) prohibiting the initial incorporation of any corporation or class of corporations;
(b) prohibiting the initial registration of a foreign corporation; and
(c) for any corporation or foreign corporation to cease to carry on its business or part of its business either immediately or within such time as may be specified in the order.

(2) An order made under this Section may be revoked or varied by the Cabinet.

(3) In making an order under this Section, the Cabinet shall not be required to act judicially and such order shall be final.

248 No action to lie against Republic, President, Minister, Judge or public officer

No action shall lie against the Republic, the President, any Minister, any Judge or any public officer in respect of anything done or omitted in exercise or purported exercise by the Cabinet, the President, any Minister, any Judge or any public officer of its or his or her functions or duties under this Act.

249 Secrecy

[s 249 rep Act 1 of 2003 s 3, opn 27 Mar 2003]

250 Certain provisions of applied statutes not to apply to the Authority, etc

[s 250 rep Act 38 of 2018 s 41, opn 15 Jan 2019]

250A Application of Rule against Perpetuities in certain cases

Notwithstanding the provisions of Section 3 of the *Foreign Trusts, Estates and Wills Act 1972*, the rule of law known as the Rule against Perpetuities shall apply to any contract, deed, settlement or limitation to which a corporation is a party if it is in such contract, deed, settlement or limitation expressed to apply thereto and for that purpose and to that extent only it shall be deemed to be a rule of law in force in the Republic.

[s 250A insrt Act 1 of 1973 s 8, opn 26 Jan 1973]

[The next page is 33,401]

PART 12 — REPEAL

251 Companies Ordinance 1912 of Territory of Papua to cease to be applied

Save in so far as it is continued in force by, and for the purposes of Section 3 of this Act, the *Companies Ordinance 1912* of the Territory of Papua shall forthwith cease to be in force or to have effect in Naoero and Schedule 3 of the *Laws Repeal and Adopting Ordinance 1922-1967* is hereby amended by deleting the said Ordinance therefrom.

[s 251 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 33,601]

SCHEDULE 1

[Section 17]

THE POWERS OF A CORPORATION

1. To carry on any business, other than a business which it is prohibited by the Act or the regulations from carrying on, which may seem to the corporation capable of being conveniently carried on or calculated directly or indirectly to enhance the value of or render profitable any of the corporation's property or rights.
2. To enter into or be a party to any transaction or document.
3. To acquire, hold, dispose of or deal with any information or rights or property of any kind.
4. To acquire, hold, dispose of or deal with the whole or any part of the undertaking of any other corporation, association or business.
5. To dispose of or otherwise deal with the whole or any part of its undertaking or business.
6. To assume any duties, obligations or liabilities.
7. To acquire any rights or interests.
8. To provide or procure provision of any services.
9. To lend and borrow.
10. To procure its registration or recognition in any place outside the Republic.
11. To create and extinguish liabilities and rights and interests.
12. To issue shares, debentures and options, and to take shares, debentures and options and to redeem and forfeit the same.
13. To employ or retain persons in and about its business or the business of any other corporation or person.
14. To give indemnities and guarantees and obtain indemnities and guarantees.
15. To take out insurances of all kinds whether over the property or rights of the corporation or not.
16. To promote any other corporation or company.
17. If it be a trading corporation, to make gifts or donations which may lawfully be made for the purpose of advancing its business.
18. If it be a holding corporation, to make gifts, donations and wagers which may lawfully be made whether the same may, or may not, be for the purpose of advancing its business.
19. If it be a holding corporation, by way of settlement or other dealing or disposition to give the right to a person not a member of the corporation to share in the whole or any part of its gains or profits to the exclusion of its members provided that in exercising such power no distribution of gains or profits shall be made pursuant to such settlement disposition or other dealing which would exceed the amount properly distributable as a dividend or properly capable of being returned as capital surplus were such distribution a distribution to some or to all of the members of the corporation.
20. To do any of the things which it may do in association with any other person or corporation and as principal or agent or as trustee or for its own benefit.
21. To promote any other business.
22. To do all such other things as are incidental or conducive to the exercise of the other powers of the corporation.

23. To do all other things which are not prohibited by or under the Act or the Regulations made thereunder or otherwise by the laws of the Republic.

[The next page is 33,801]

SCHEDULE 2

[Section 23]

TABLE A
ARTICLES FOR MANAGEMENT OF A TRADING CORPORATION

Interpretation

1. In these Articles words and expressions, unless the context otherwise requires or a contrary intention appears, have the same meanings as in the *Corporations Act 1972* and further:

'the office' means the registered office of the corporation;

'the Act' means the *Corporations Act 1972*;

'the seal' means the corporate seal of the corporation; and

'secretary' means a person appointed to perform the duties of a secretary of the corporation.

Issue of shares

2. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, but subject to the Act, shares in the corporation may be issued by the directors and any such shares may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the directors, subject to any ordinary resolution of the corporation, determine.

Bearer shares

3. No bearer shares in the corporation shall be issued.

Redeemable shares

4. Subject to the Act, any shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, or at the option of the corporation are liable, to be redeemed but such shares shall when issued be classified as redeemable shares and shall be referred to as such in any certificate relating to such shares and in the register of members.

Share capital and variation of rights

5. 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, whether or not the corporation is being wound up, be varied by special resolution of the corporation with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special 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 Articles 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 so that any holder of shares of the class present in person or by proxy may demand a poll.

6. The rights conferred upon the holders of shares of any class issued with preferred or

other special rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally therewith or in priority thereto.

7. The corporation may exercise the powers of paying commissions of the kinds referred to in Section 58 of the Act, provided that the rate per cent, or the amount of the commission paid or agreed to be paid, shall be disclosed in the manner required by the Act and the commission shall not exceed the rate of ten per cent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to ten per cent of that price, as the case may be. Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The corporation may also on the issue of shares pay such brokerage as may be lawful.

8. Except as required by law, no person shall be recognised by the corporation as holding any share upon any trust, and the corporation shall not be bound by or be compelled in any way to recognise, even when having notice thereof, any equitable, contingent, future or partial interest in any share or unit of a share or, except only as by these Articles or by law otherwise provided, any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

9. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive a certificate under the seal of the corporation in accordance with the Act but in respect of a share or shares held jointly by several persons the corporation 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 such holders.

Lien

10. The corporation shall have a first and paramount lien on every share, not being a fully paid share, for all money, whether presently payable or not, called or payable at a fixed time in respect of that share, and the corporation shall also have a first and paramount lien on all shares, other than fully paid shares, registered in the name of a single person for all money presently payable by him or her or his or her estate to the corporation; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The corporation's lien, if any, on a share shall extend to all dividends payable thereon.

11. The corporation may sell, in such manner as the directors think fit, any shares on which the corporation has a lien but no sale shall be made unless a 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 or her death or bankruptcy.

12. To give effect to any such sale the directors may authorise 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 or she shall not be bound to see to the application of the purchase money, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

13. The proceeds of the sale shall be received by the corporation and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and

the residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

14. The directors may from time to time make calls upon the members in respect of any money unpaid on their shares, whether on account of the nominal value of the shares or by way of premium, and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call, and each member shall, subject to receiving at least twenty-eight days' notice specifying the time or times and place of payment, pay to the corporation at the time or times and place so specified the amount called on his or her shares. A call may be revoked or postponed as the directors may determine.

15. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.

16. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

17. 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 on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding eight per cent per annum as the directors may determine, but the directors shall be at liberty to waive payment of that interest wholly or in part.

18. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture, or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.

19. The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

20. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the money uncalled and unpaid upon any shares held by him or her, and upon all or any part of the money so advanced may, until the same would, but for the advance, become payable, pay interest at such rate not exceeding, unless the corporation in general meeting shall otherwise direct, eight per cent per annum as may be agreed upon between the directors and the member paying the sum in advance.

Transfer of shares

21. Subject to these Articles any member may transfer all or any of his or her shares by instrument in writing in any usual or common form or in any other form the directors may approve. The instrument shall be executed by or on behalf of both the transferor and the transferee; and the transferor shall remain the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect thereof.

22. The instrument of transfer shall be left for registration at the office of the corporation together with such fee not exceeding $2.00 as the directors from time to time may require 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, and thereupon the corporation shall subject to the powers vested in the directors by these Articles register the transferee as a shareholder and retain the instrument of transfer.

23. 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 corporation has a lien.

24. The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine not exceeding in the whole thirty days in any year.

Transmission of shares

25. In case of the death of a member the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the corporation as having any title to his or her interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him or her with other persons.

26. A person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of a member may, upon such evidence being produced as may from time to time properly be required by the directors and subject as hereinafter provided, elect either to be registered himself or herself as holder of the share or to have some person nominated by him or her registered as the transferee thereof, 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 that member before his or her death, bankruptcy or insolvency.

27. If the person so becoming entitled elects to be registered himself or herself he or she shall deliver or send to the corporation a notice in writing signed by him or her stating that he or she so elects. If he or she elects to have another person registered he or she shall testify his or her election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.

28. Where the registered holder of any share dies or becomes bankrupt or insolvent, his or her personal representatives or the assignee of his or her 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 corporation, or to voting or otherwise, as the registered holder would have been entitled to if he or she had not died or become bankrupt or insolvent; and 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 Articles, be deemed to be joint holders of the share.

Forfeiture of shares

29. 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

the call or instalments remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid, together with interest which may have accrued.

30. The notice shall name a further day, not earlier than the expiration of twenty-eight days from the date of service 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.

31. 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. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.

32. 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.

33. 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 corporation all money which at the date of forfeiture was payable by him or her to the corporation in respect of the shares, together with interest, at the rate of eight per cent per annum from the date of forfeiture, on the money for the time being unpaid if the directors think fit to enforce payment of such interest, but his or her liability shall cease to the extent that the corporation receives payment of money in respect of the shares.

34. A statutory declaration in writing that the declarant is a director or the secretary of the corporation, and that a share in the corporation 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.

35. The corporation may receive the consideration, if any, given for a forfeited 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 or she 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 or her 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.

36. The provisions of these Articles 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 nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

37. Any consideration received by the corporation on the sale or disposition of forfeited shares which exceeds the liability to the corporation of the person whose shares have been forfeited in respect of the shares so forfeited shall be held by the corporation in trust for the person whose shares have been forfeited.

Alteration of capital

38. The corporation may from time to time by ordinary resolution:

(a) increase the share capital by such sum to be divided into shares of such amount as the resolution shall prescribe;

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

(c) 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;

(d) 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 a person or which have been forfeited and diminish the amount of its share capital by the amount of the shares so cancelled.

39. Subject to any direction to the contrary that may be given by the corporation 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 corporation 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 the 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 or she declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the corporation. 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.

40. The corporation may by special resolution reduce its share capital in any manner and with and subject to any incident authorised, and consent required, by law.

General meetings

41. An annual general meeting of the corporation shall be held in accordance with the provisions of the Act. All general meetings other than the annual general meetings shall be called extraordinary general meetings.

42. Any director may whenever he or she thinks fit convene an extraordinary general meeting, and extraordinary general meetings shall be convened on such requisition or in default may be convened by such requisitionists as provided by the Act.

43. Subject to the provisions of the Act and these Articles relating to special resolutions and agreements for shorter notice, fourteen 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 to such persons as are entitled to receive such notices from the corporation.

44. All business shall be special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and the report of the directors and auditors and the election of directors and auditors in the place of those retiring.

Proceedings at general meetings

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, two members present in person shall be a quorum. For the purposes of this Article "**member**" includes a person attending as a proxy or as representing a corporation which is a member or as representing the committee, trustee or other person having the management of the estate of a person who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law of the Republic relating to mentally disordered persons.

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, or to such other day and at such other time and place as the directors may determine.

47. The chairperson, if any, of the board of directors shall preside as chairperson at every general meeting of the corporation or if there is no such chairperson, or if he or she is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the members present shall elect one of their number to be chairperson of the meeting.

48. The chairperson 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 thirty 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.

49. 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 any member present in person, by representative or by proxy. Unless a poll is so demanded, a declaration by the chairperson 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 containing the minutes of the proceedings of the corporation, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

50. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith.

51. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall not have a second or casting vote.

52. Subject to any rights or restrictions for the time being attached to any class or classes of shares, at meetings of members or classes of members each member entitled to vote may vote in person or be represented by and vote by proxy or by attorney, and on a show of hands every person present who is a member or representative of a member shall have one vote, and on a poll every member present in person or by representative shall have one vote for each share he or she holds.

53. 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 other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

54. A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mentally-disordered persons may be represented by and vote, whether on a show of hands or on a poll, by his or her committee or by his or her trustee or by such other person as properly has the management of his or her estate, and any such committee, trustee or other person may vote by representative or proxy.

55. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him or her in respect of shares in the corporation have been paid.

56. No objection shall be raised on the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

57. The instrument appointing a proxy shall be in writing, in the common or usual form, under the hand of the appointor or of his or her attorney duly authorised in writing or, if the appointor is a corporation, under the seal or under the hand of an officer or attorney duly authorised. A proxy may but need not be a member of the corporation. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

58. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

Corporation

I/We,
of
being a member/members of the abovenamed corporation,
hereby appoint
of
or failing him or her
of
as my/our proxy to vote for me/us on my/our behalf at the (annual or extraordinary as the case may be) general meeting of the corporation, to be held on the day of 20, and at any adjournment thereof.

Signed this day of 20.

This form is to be used *in favour of / against the resolution.

*Strike out whichever is not desired. (Unless otherwise instructed, the proxy may vote as he or she thinks fit.)

59. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a photostat copy of that power or authority shall be deposited at the office of the corporation, or at such other place within Naoero as is specified for that purpose in the notice convening the meeting, not less than five days before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposed to vote, or, in the case of a poll, not less than five days before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

[cl 59 am Act 21 of 2026 s 5, opn 12 May 2026]

60. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, or the transfer of the share in respect of which the instrument is given, if no intimation in writing of such death, unsoundness of mind, revocation or transfer as aforesaid has been received by the corporation at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

61. A resolution in writing contained in the one instrument or in several instruments in like form signed by the members, holding together more than seventy-five per cent of the voting rights of the shares having voting rights at a general meeting of the corporation of which resolution notice has been given in the manner in which notices of general meetings should be given shall be as valid as a resolution or a special resolution passed at a general meeting of the corporation.

Directors' appointment, etc

62. The number of the directors and the names of the first directors and the fees, if any, of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

63. At the first annual general meeting of the corporation all the directors shall retire from office, and at the annual 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. A retiring director shall be eligible for re-election.

64. 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 become directors on the same day those to retire shall, unless they otherwise agree among themselves, be determined by lot.

65. The corporation at the meeting at which a director so retires may fill the vacated office by electing a person thereto, and in default the retiring director shall if offering himself or herself for re-election and not being disqualified under the Act from holding office as a director be deemed to have been re-elected, unless at that meeting it is expressly resolved not to fill the vacated office or unless a resolution for the re-election of that director is put to the meeting and lost.

66. The corporation may from time to time by ordinary resolution passed at a 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.

67. The directors shall have power at any time, and from time to time, to appoint a person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these Articles. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election but shall not be taken into account in determining the directors who are to retire by rotation at the meeting.

68. The corporation may by ordinary resolution remove any director before the expiration of his or her period of office, and may by ordinary resolution appoint another person in his or her stead; the person so appointed shall be subject to retirement at the same time as if he or she had become a director on the day on which the director in whose place he or she is appointed was last elected a director.

69. The remuneration of the directors shall from time to time be determined by the corporation in general meeting. That remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel, and other expenses properly incurred by them in attending and returning from meetings of the directors or of any committee of the directors or general meetings of the corporation or in connection with the business of the corporation.

70. The directors shall not be required to hold any shares in the corporation. A director may be a corporation whether incorporated in Naoero or elsewhere and may act as such through a representative or delegate appointed from time to time by written notice lodged with the secretary.

[cl 70 am Act 21 of 2026 s 5, opn 12 May 2026]

71. The office of director shall become vacant if the director:
(a) ceases to be a director by virtue of the Act;
(b) within Naoero or elsewhere is adjudged bankrupt or insolvent or makes any arrangement or compromise with his or her creditors generally;
(c) becomes prohibited from being a director by reason of any order made under the Act;
(d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mentally-disordered persons;
(e) resigns his or her office by notice in writing to the corporation;
(f) for more than six months is absent without permission of the directors from meetings of the directors held during that period;
(g) without the consent of the corporation in general meeting holds any other office of profit under the corporation except that of managing director or manager; or
(h) is directly or indirectly interested in any contract or proposed contract with the corporation and fails to declare the nature of his or her interest in manner required by the Act.

[cl 71 am Act 21 of 2026 s 5, opn 12 May 2026]

Powers and duties of directors

72. The business of the corporation shall be managed by the directors who may pay all expenses incurred in promoting and incorporating the corporation and may exercise all such powers of the corporation as are not, by the Act or by these Articles, required to be exercised by the corporation in general meeting subject, nevertheless, to any of these Articles and to the provisions of the Act.

73. The directors may exercise all the powers of the corporation to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the corporation or of any third party.

74. The directors may exercise all the powers of the corporation in relation to any official seal for use outside Naoero and in relation to branch registers and may provide for the establishment of branches of the corporation outside the Republic in accordance with the provisions of the Act.

[cl 74 am Act 21 of 2026 s 5, opn 12 May 2026]

75. The directors may from time to time by power of attorney appoint any corporation, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the corporation for such purposes, not exceeding those vested in or exercisable by the directors under these Articles, and for such period, not exceeding 2 years, and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities, and discretions vested in him or her.

76. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the corporation, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors from time to time determine.

77. The directors shall cause minutes to be made:
(a) of all appointments of officers;
(b) of the names of the directors present at all meetings of the corporation and of the directors; and

(c) of all proceedings at all meetings of the corporation and of the directors.

Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succceeding meeting.

78. All resolutions in writing signed by all the members or directors pursuant to the provisions in that behalf contained in these Articles shall be entered in the minute book containing minutes of the meetings of the corporation or of the directors respectively.

Proceedings of directors

79. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A director may at any time, and the secretary shall on the requisition of a director, summon a meeting of the directors.

80. Subject to these Articles questions arising at any meeting of directors shall be decided by a majority of votes and a determination by a majority of directors shall for all purposes be deemed a determination of the directors. In case of an equality of votes the chairperson of the meeting shall have no second or casting vote.

81. A director may vote and may be counted in the quorum in respect of any contract or proposed contract with the corporation in which he or she is interested or any matter arising thereout provided, if he or she be other than a registered director, he or she discloses his or her interest as required by the Act, and if he or she does not do so his or her vote shall not be counted but he or she shall still be counted in the quorum.

82. Any director with the approval of the directors may appoint a person, whether a member of the corporation or not, to be an alternate or substitute director in his or her place during such period as he or she thinks fit. A person while he or she so holds office as an alternate or substitute director shall be entitled to notice of meetings of the directors and to attend and vote thereat accordingly, and to exercise all the powers of the appointor in his or her place. An alternate or substitute director shall not be required to hold any share qualification, and shall ipso facto vacate office if the appointor vacates office as a director or removes the appointee from office. Any appointment or removal under this Article shall be effected by notice in writing under the hand of the director making the same.

83. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be two.

84. The directors may act notwithstanding any vacancy in their body or failure to appoint the total number of directors fixed by or under these Articles, but if and so long as their number is less than the number fixed by or under these Articles as the necessary quorum of directors, the directors or director may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the corporation, but for no other purpose.

85. The directors may elect a chairperson of their meetings, and determine the period for which he or she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within ten minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairperson of the meeting.

86. 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.

87. A committee may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present within ten minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.

88. 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 the case of an equality of votes the chairperson shall have no second or casting vote.

89. All acts done by any meeting of the directors or of a committee of directors or by a person acting as a director shall, notwithstanding that it is discovered that there was some defect in the appointment of any such director or persons acting as aforesaid, or that they or any of them were disqualified or had never been qualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

90. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors.

Managing directors

91. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. A director so appointed shall not, while holding that office, be subject to retirement by rotation under Articles 63 to 65 hereof or be taken into account in determining the rotation of retirement of directors, but his or her appointment shall be automatically determined if he or she ceases from any cause to be a director.

92. A managing director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration, whether by way of salary, commission, or participation in profits, or partly in one way and partly in another, as the directors may determine.

93. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of those powers.

Associate directors

94. The directors may from time to time appoint a person to be an associate director and may from time to time cancel any such appointment. The directors may fix, determine and vary the powers, duties and remuneration of a person so appointed, but a person so appointed shall not be required to hold any shares to qualify him or her for appointment nor have any right to attend or vote at any meeting of directors except by the invitation and with the consent of the directors.

Registered director

95. The directors shall appoint a registered director of the corporation for such term and at such remuneration and upon such conditions as the other directors and the registered director agree. Any registered director so appointed may be removed by the directors in accordance with the provisions of the Act, but such registered director shall not be subject to the provisions of Articles 63 to 65 relating to retirement and rotation of directors.

Secretary

96. The secretary shall in accordance with the Act be appointed by the directors for such term, and at such remuneration, and upon such conditions as the directors and the secretary shall agree. The directors may appoint a general secretary or other secretaries

and subject to the Act fix their respective duties and functions. Any secretary may be removed by the directors subject to the provisions of the Act.

[cl 96 am Act 38 of 2018 s 42, opn 15 Jan 2019]

Seal

97. The directors shall provide for the safe custody of the seal, which shall be used only by the authority of the directors or of a committee of the directors authorised by the directors in that behalf, and every instrument to which the seal is affixed shall be signed by or on behalf of a director or by some other person appointed by the directors for the purpose. The directors shall provide for the safe custody of official seals and for the persons by whom any such seal is to be affixed.

Accounts

98. The directors shall cause proper accounting and other records to be kept and shall distribute copies of balance-sheets as required by the Act and shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the corporation 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 paper of the corporation except as conferred by any written law or authorised by the directors or by the corporation in general meeting.

Dividends and reserves

99. The corporation in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

100. 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 corporation.

101. No dividend shall be paid otherwise than out of profits and no dividends shall bear interest against the corporation.

102. The directors may, before recommending any dividend, set aside out of the profits of the corporation such sums as they think proper as reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the corporation may be properly applied, and pending any such application may, at the like discretion, either be employed in the business of the corporation or be invested in such investments, other than shares in the corporation, as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

103. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Article as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.

104. The directors may deduct from any dividend payable to any member all sums of money, if any, presently payable by him or her to the corporation on account of calls or otherwise in relation to the shares of the corporation.

105. Any general meeting declaring a dividend may direct payment of such dividend wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of the corporation or of any other corporation or in any one or more of such ways and the directors shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the directors may settle the same as they think expedient, and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.

106. Any dividend, interest, or other money payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other money payable in respect of the shares held by them as joint holders.

Capitalisation of profits

107. The corporation in general meeting may upon the recommendation of the directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the corporation's reserve accounts or to the credit of the profit and loss accounts Or otherwise available for distribucion, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full unissued shares or debentures of the corporation to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in one way and partly in the other, and the directors shall give effect to such resolution.

108. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorise a person to enter on behalf of all the members entitled thereto into an agreement with the corporation providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation, or, as the case may require, for the payment up by the corporation on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

Notices

109. A notice may be given by the corporation to any member either personally or by sending it by post to him or her at his or her registered address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing,

prepaying and posting, by airmail if the address is outside Naoero, a letter containing the notice and to have been effected ten days after the date of its posting.

[cl 109 am Act 21 of 2026 s 5, opn 12 May 2026]

110. A notice may be given by the corporation to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.

111. A notice may be given by the corporation to the persons entitled to a share in consequence of the death, bankruptcy or insolvency of a member by sending it through the post in a prepaid letter, by airmail if the address is outside Naoero, addressed to them by name, or by the title of representatives of the deceased or assignee of the bankrupt or insolvent, or by a like description at the address, if any, supplied for the purpose by the person 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, bankruptcy or insolvency had not occurred.

[cl 111 am Act 21 of 2026 s 5, opn 12 May 2026]

112.

(1) Notice of every general meeting shall be given in any manner hereinbefore authorised to:
   (a) every member except those members who have not supplied to the corporation an address for the giving of notices to them;
   (b) every person entitled to a share in consequence of the death, bankruptcy or insolvency of a member, who but for his or her death, bankruptcy or insolvency, would be entitled to receive notice of the meeting; and
   (c) the auditor for the time being of the corporation;

(2) No other person shall be entitled to receive notices of general meetings.

Winding-Up

113. If the corporation is wound up the liquidator may, with the sanction of a special resolution of the corporation, divide amongst the members in kind the whole or any part of the assets of the corporation, whether they consist of property of the same kind or not, and may for that purpose set such value as he or she deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like-sanction, thinks fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

114. Every director, managing director, agent, auditor, secretary and other officer for the time being of the corporation shall be indemnified out of the assets of the corporation against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application under the Act in which relief is granted to him or her by the Court or Registrar in respect of any negligence, default, breach of duty or breach of trust.

[The next page is 34,001]

SCHEDULE 2

[Section 23]

TABLE B
ARTICLES FOR MANAGEMENT OF A HOLDING CORPORATION

Interpretation

1. In these Articles words and expressions, unless the context otherwise requires or a contrary intention appears, bear the same meanings as in the *Corporations Act 1972* and further:

'the office' means the registered office of the corporation;

'the Act' means the *Corporations Act, 1972*;

'the seal' means the corporate seal of the corporation; and

'secretary' means a person appointed to perform the duties of a secretary of the corporation.

Issue of shares

2. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, but subject to the Act, shares in the corporation may be issued by the directors, or, in the case of a branch of the corporation established outside Naoero, by the directors of the local board, in accordance with the provisions of the Act and any shares may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the directors, subject to any ordinary resolution of the corporation, determine.

[cl 2 am Act 21 of 2026 s 5, opn 12 May 2026]

Bearer shares

3. No bearer shares/share warrants in the corporation shall be issued.

[cl 3 subst Act 14 of 2016 s 10, opn 10 Mar 2016]

4.

[cl 4 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

5.

[cl 5 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

6.

[cl 6 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

7.

[cl 7 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

8.

[cl 8 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

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[cl 9 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

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[cl 10 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

11.

[cl 11 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

12.
[cl 12 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
13.
[cl 13 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
14.
[cl 14 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
15.
[cl 15 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
16.
[cl 16 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
17.
[cl 17 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
18.
[cl 18 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
19.
[cl 19 rep Act 14 of 2016 s 10, opn 10 Mar 2016]
20.
[cl 20 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

Redeemable shares

21. Subject to the Act, any shares may be redeemable shares and such shares shall be liable to be redeemed by the corporation. Until the Directors otherwise resolve, such shares shall be redeemable upon the repayment of the amount paid up thereon. Such shares shall be classified as redeemable shares and shall be referred to as such in any certificate or warrant relating to such shares and in the register of members.

Share capital and variation of rights

22. 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, whether or not the corporation is being wound up, be varied by special resolution of the corporation with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special 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 Articles relating to general meetings shall apply mutatis mutandis, 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 so that any holder of shares of the class present in person or by proxy may demand a poll.

23. The rights conferred upon the holders of shares of any class issued with preferred or other special rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally therewith or in priority thereto.

24. The corporation may exercise the powers of paying commissions of the kind referred to in Section 58 of the Act provided that the rate per cent, or the amount of the commission paid or agreed to be paid, shall be disclosed in the manner required by the Act and the commission shall not exceed the rate of ten per cent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to ten per cent of that price, as the case may be, unless the amount or rate of commission proposed to be paid has at least twenty-one days before payment been notified to all persons entitled to receive notices of general meetings and no such person has objected in writing. Such

commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The corporation may also on the issue of shares pay such brokerage as may be lawful.

25. Except as required by law, no person shall be recognised by the corporation as holding any share upon any trust, and the corporation shall not be bound by or be compelled in any way to recognise, even when having notice thereof, any equitable, contingent, future or partial interest in any share or unit of a share or, except only as by these Articles or by law otherwise provided, any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

26. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive a certificate under the seal of the corporation in accordance with the Act but in respect of a share or shares held jointly by several persons the corporation 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 such holders.

27. The corporation shall have a first and paramount lien on every share for all money, whether presently payable or not, called or payable at a fixed time in, respect of that share, and the corporation shall also have a first and paramount lien on all shares registered in the name of a single person for all money presently payable by him or her or his or her estate to the corporation; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The corporation's lien, if any, on a share shall extend to all dividends payable thereon.

28. The corporation may sell, in such manner as the directors think fit, any shares on which the corporation has a lien but no sale shall be made unless a 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 or her death or bankruptcy.

29. To give effect to any such sale the directors may authorise 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 or she shall not be bound to see to the application of the purchase money, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

30. The proceeds of the sale shall be received by the corporation and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the shares before the sale, be paid to the person entitled to the shares at the date of the sale.

Calls on shares

31. The directors may from time to time make calls upon the members in respect of any money unpaid on their shares, whether on account of the nominal value of the shares or by way of premium, and not by the conditions of allotment thereof made payable at fixed times and each member shall, subject to receiving at least twenty-eight days' notice specifying the time or times and place of payment, pay to the corporation at the time or times and place so specified the amount called on his or her shares. A call may be revoked or postponed as the directors may determine.

32. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed and may be required to be paid by instalments.

33. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

34. 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 on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding eight per cent per annum as the directors may determine, but the directors shall be at liberty to waive payment of that interest wholly or in part.

35. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture, or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.

36. The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

37. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the money uncalled and unpaid upon any shares held by him or her, and upon all or any part of the money so advanced may, until the same would, but for the advance, become payable, pay interest at such rate not exceeding, unless the members of the corporation in general meeting or by writing signed by them shall otherwise direct, eight per cent per annum as may be agreed upon between the directors and the member paying the sum in advance.

Transfer of shares

38. Subject to these Articles any member may transfer all or any of his or her shares by instrument in writing in any usual or common form or in any other form which the directors may approve. The instrument shall be executed by or on behalf of both the transferor and the transferee; and the transferor shall remain the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect thereof.

[cl 38 am Act 21 of 2016 s 25, opn 12 May 2016]

39. The instrument of transfer shall he or she left for registration at the office of the corporation together with such fee not exceeding $2.00 as the directors from time to time may require 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, and thereupon the corporation shall subject to the powers vested in the directors by these Articles register the transferee as a shareholder and retain the instrument of transfer.

Transmission of shares

40. In case of the death of a member the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the corporation as having any title to his or her interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him or her with other persons.

41. A person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of a member may, upon such evidence being produced as may from time to

time properly be required by the directors and subject as hereinafter provided, elect either to be registered himself or herself as holder of the share or to have some person nominated by him or her registered as the transferee thereof, 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 that member before his or her death, bankruptcy or insolvency.

42. If the person so becoming entitled elects to be registered himself or herself he or she shall deliver or send to the corporation a notice in writing signed by him or her stating that he or she so elects. If he or she elects to have another person registered he or she shall testify his or her election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice of transfer were a transfer signed by that member.

43. Where the registered holder of any share dies or becomes bankrupt or insolvent his or her personal representation or the assignee of his or her 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 corporation, or to voting or otherwise, as the registered holder would have been entitled to if he or she had not died or become bankrupt or insolvent; and 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 Articles, be deemed to be joint holders of the share.

Forfeiture of shares

44. 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 the call or instalment remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

45. The notice shall name a further day, not earlier than the expiration of twenty-eight days from the date of service 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.

46. 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. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.

47. 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.

48. 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 corporation all money which, at the date of forfeiture, was payable by him or her to the corporation in respect of the shares, together with interest at the rate of eight per cent per annum from the date of forfeiture on the money for the time being unpaid if the directors think fit to enforce payment of such interest, but his or her liability shall cease to the extent that the corporation receives payment of money in respect of the shares.

49. A declaration in writing that the declarant is a director or the secretary of the corporation, and that a share in this corporation 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.

50. The corporation may receive the consideration, if any, given for a forfeited 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 or she 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 or her 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.

51. The provisions of these Articles 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 nominal value of the share or by way of premium as if the same had been payable by virtue of a call duly made and notified.

52. A corporation shall not be liable to account to the person whose shares have been forfeited as aforesaid for any consideration received by it on the sale or other disposition of the forfeited shares in excess of the liability of that person to the corporation and the corporation shall be entitled to retain any such excess for its own use and benefit but the directors may resolve to pay any such excess over to the person whose shares were forfeited or to his or her personal representatives or assigns.

Alteration of capital

53. The corporation may from time to time by ordinary resolution:

(a) increase the share capital by such sum to be divided into shares of such amount as the resolution shall prescribe;

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

(c) 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;

(d) 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 a person or which have been forfeited and diminish the amount of its share capital by the amount of the shares so cancelled.

54. The corporation may subject to the provisions of the Act by special resolution reduce its share capital in any manner.

General Meetings

55. Any director may whenever he or she thinks fit convene a general meeting, and general meetings shall be convened on such requisition or in default may be convened by such requisitionists as provided by the Act.

56. Subject to the provisions of the Act and these Articles relating to special resolutions and agreements for shorter notice, fourteen days' notice at the least, exclusive of the date 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 the general

nature of the business to be considered thereat shall be given to such persons as are entitled to receive such notice from the corporation.

Proceedings at general meetings

57. 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, one member holding more than 50 per cent of the issued shares giving the right to attend and vote at general meetings or two members present shall be a quorum. For the purposes of this Article "member" includes a person attending as a proxy or as representing a corporation which is a member or as representing the committee, trustee or other person having the management of the estate of a person who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law of the Republic relating to mentally-disordered persons.

58. 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, or to such other day and at such other time and place as the directors may determine.

59. The chairperson, if any, of the board of directors shall preside as chairperson at every general meeting of the corporation or if there is no such chairperson, or if he or she is not present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the members present shall elect one of their number to be chairperson of, the meeting.

60. The chairperson 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 thirty 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.

61. 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 any member present in person, by representative or by proxy. Unless a poll is so demanded a declaration by the chairperson 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 containing the minutes of the proceedings of the corporation, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

62. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith.

63. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall not have a second or casting vote.

64. Subject to any rights or restrictions for the time being attached to any class or classes of shares, at meetings of members or classes of members each member entitled to

vote may vote in person or be represented and vote by prexy or by attorney and on a show of hands every person present who is a member or representative of a member shall have one vote, and on a poll every member present in person or by representative shall have one vote for each share he or she holds.

65. 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.

66. A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mentally-disordered persons may be represented by and vote, whether on a show of hands or on a poll, by his or her committee or by his or her trustee or by such other person as properly has the management of his or her estate, and any such committee, trustee or other person may vote by representative or proxy.

67. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him or her in respect of shares in the corporation have been paid.

68. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

69. The instrument appointing a proxy shall be in writing, in the common or usual form, under the hand of the appointor or of his or her attorney duly authorised in writing or, if the appointor is a corporation, under seal or under the hand of an officer or attorney duly authorised. A proxy may but need not be a member of the corporation. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

70. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

_____Holding corporation

I/We,

of

being a member/members of the abovenamed corporation, hereby appoint

of , or failing him or her,

of ,as my/our proxy to vote

for me/us on my/our behalf at the general meeting of the corporation, to be held on the day of

19 ,and at any adjournment thereof.

Signed this day of 19 .

This form is to be used *in favour of / against the resolution.

(Unless otherwise instructed, the proxy may vote as he or she thinks fit.)

71. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a photostat copy of that power or authority shall be deposited at the office of the corporation, or at such other place within Naoero as is specified for that purpose in the notice convening the meeting, not less than five days before the time for holding the meeting or adjourned meeting at which the person named

in the instrument proposes to vote, or, in the case of a poll, not less than five days before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

[cl 71 am Act 21 of 2026 s 5, opn 12 May 2026]

72. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, or the transfer of the share in respect of which the instrument is given, if no intimation in writing of such death, unsoundness of mind, revocation or transfer as aforesaid has been received by the corporation at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used.

73.

[cl 73 rep Act 14 of 2016 s 10, opn 10 Mar 2016]

74. A resolution in writing contained in the one instrument or in several instruments in like form signed by the members, other than holders of share warrants, holding together more than seventy-five per cent of the voting rights of the shares having voting rights at a general meeting of the corporation of which resolution notice has been given in the manner in which notices of general meetings should be given shall be as valid as a resolution or a special resolution passed as a general meeting of the corporation.

Directors' appointment, etc

75. The number of the directors, the names of the first directors and the fees, if any, of the first directors shall be determined in writing by the subscribers of the memorandum or a majority of them.

76. The corporation may from time to time by ordinary resolution increase or reduce the number of directors.

77. The directors shall have power at any time, and from time to time, to appoint a person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these Articles.

78. The corporation may by ordinary resolution remove any director and may by ordinary resolution appoint another person in his or her stead.

79. The remuneration of the directors may be fixed or varied by the corporation by ordinary resolution and shall be deemed to accrue from day to day; the directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or of any committee of the directors or general meetings of the corporation or in connection with the business of the corporation.

80. The directors shall not be required to hold any shares in the corporation. A director may be a corporation whether incorporated in Naoero or elsewhere and may act as such through a representative or delegate appointed from time to time by written notice lodged with the secretary.

[cl 80 am Act 21 of 2026 s 5, opn 12 May 2026]

81. The office of director shall become vacant if the director:

(a) ceases to be a director by virtue of the Act;

(b) within Naoero or elsewhere is adjudged bankrupt or insolvent or makes any arrangement or compromise with his or her creditors generally;

(c) becomes prohibited from being a director by reason of any order made under the Act;

(d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mentally-disordered persons;

(e) resigns his or her office by notice in writing to the corporation.

[cl 81 am Act 21 of 2026 s 5, opn 12 May 2026]

Powers and duties of directors

82. The business of the corporation shall be managed by the directors who may pay all expenses incurred in promoting and incorporating the corporation and may exercise all such powers of the corporation as are not, by the Act or by these Articles, required to be exercised by the corporation in general meeting, subject, nevertheless, to any of these Articles and to the provisions of the Act.

83. The directors may exercise all the powers of the corporation to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the corporation or of any third party.

84. The directors may exercise all the powers of the corporation in relation to any official seal for use outside Naoero and in relation to branch registers and may provide for the establishment of branches of the corporation outside Naoero in accordance with the provisions of the Act.

[cl 84 am Act 21 of 2026 s 5, opn 12 May 2026]

85. The directors may from time to time by power of attorney appoint any corporation, firm or person or body of persons whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the corporation for such purposes and with such powers, authorities and discretions, not exceeding those vested in or exercisable by the directors under these Articles, and for such period not exceeding 2 years and subject to such conditions as they may think fit, and any such powers of attorney may cottain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

86. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the corporation, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors from time to time determine.

87. The directors shall cause minutes to be made:

(a) of all appointments of officers;

(b) of the names of the directors present at all meetings of the corporation and of the directors; and

(c) of all proceedings at all meetings of the corporation and of the directors.

Such minutes shall be signed by the chairperson of the meeting at which the proceedings were held or by the chairperson of the next succeeding meeting.

88. All resolutions in writing signed by members or directors pursuant to the provisions in that behalf contained in these Articles shall be entered in the minute book containing minutes of the meetings of the corporation or of the directors respectively.

Proceedings of directors

89. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A director may at any time, and the secretary shall on the requisition of a director, summon a meeting of the directors.

90. Subject to these Articles questions arising at any meeting of directors shall be decided by a majority of votes and a determination by a majority of directors shall for all

purposes be deemed a determination of the directors. In case of an equality of votes the chairperson of the meeting shall have no second or casting vote.

91. A director may vote and be counted in the quorum in respect of any contract or proposed contract with the corporation in which he or she is in any way interested or on any matter arising thereout and no contract entered into by the corporation in which a director is in any way interested shall by reason thereof be voidable and no director shall be liable to account to the corporation for any profits realised by such contract or any office of profit held by him or her by reason of his or her being a director.

92. Any director with the approval of the directors may appoint a person, whether a member of the corporation or not, to be an alternate or substitute director in his or her place during such period as he or she thinks fit. A person while he or she so holds office as an alternate or substitute director shall be entitled to notice of meetings of the directors and to attend and vote thereat accordingly, and to exercise all the powers of the appointor in his or her place. An alternate or substitute director shall not be required to hold any share qualification, and shall ipso facto vacate office if the appointor vacates office as a director or removes the appointee from office. Any appointment or removal under this Article shall be effected by notice in writing under the hand of the director making the same.

93. The quorum necessary for the transaction of the business of the directors may be fixed by the directors; but until so fixed it shall be one less than the total number of directors unless the total number of directors is less than three, when the quorum shall be all the directors.

94. The directors may act notwithstanding any vacancy in their body or failure to appoint the total number of directors fixed by or under these Articles but if and so long as their number is less than the number fixed by or under these Articles as the necessary quorum of directors, the directors or director may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the corporation, but for no other purpose.

95. The directors may elect a chairperson of their meetings and determine the period for which he or she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within ten minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairperson of the meeting.

96. 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.

97. A committee may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present within ten minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairperson of the meeting.

98. 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 the case of an equality of votes the chairperson shall have no second or casting vote.

99. All acts done by any meeting of the directors or of a committee of directors or by a person acting as a director shall, notwithstanding that it is 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 at had never been qualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

100. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors.

Managing directors

101. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment but such appointment shall be automatically determined if the appointee ceases from any cause to be a director.

102. A managing director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration, whether by way of salary, commission or participation in profits, or partly in one way and partly in another, as the directors may determine.

103. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw alter or vary all or any of those powers.

Registered director

104. The directors shall appoint a registered director of the corporation for such term and at such remuneration and upon such condition as the other directors and the registered director agree. Any registered director so appointed may be removed by the directors.

Resident secretary

105. The secretary shall, in accordance with the Act, be appointed by the directors for such term, and at such remuneration, and upon such conditions as the directors and the secretary shall agree. The directors may appoint a general secretary or other secretaries and subject to the Act fix their respective duties and functions. Any secretary may be removed by the directors subject to the provisions of the Act.

Seal

106. The directors shall provide for the safe custody of the seal, which shall be used only by the authority of the directors or of a committee of the directors authorised by the directors in that behalf, and every instrument to which the seal is affixed shall be signed by or on behalf of a director or by some other person appointed by the directors for the purpose. The directors shall provide for the safe custody of official seals and for the persons by whom any such seal is to be affixed.

Accounts

107. The directors shall cause proper accounting and other records to be kept and shall distribute copies of balance-sheets as required by the Act and shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the corporation 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 paper of the corporation except as conferred by any written law or authorised by the directors or by the corporation in general meeting.

Dividends and reserves

108. The directors may declare dividends.

109. 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 corporation.

110. No dividend shall be paid otherwise than out of profits and no dividend shall bear interest against the corporation.

111. The directors may, before declaring any dividend, set aside out of the profits of the corporation such sums as they think proper as reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the corporation may be properly applied, and pending any such application may, at the like discretion, either be employed in the business of the corporation or be invested in such investments as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

112. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Article as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.

113. The directors may deduct from any dividend payable to any member all sums of money, if any, presently payable by him or her to the corporation on account of calls or otherwise in relation to the shares of the corporation.

114. Any dividend may be paid wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of the corporation or of any other corporation or in any one or more of such ways and, where any difficulty arises in regard to such distribution, the directors may settle the same as they think expedient, and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.

115. Any dividend, interest, or other money payable in cash in respect of registered shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Anyone or more joint holders may give effectual receipts for any dividends, bonuses or other money payable in respect of the shares held by them as joint holders.

Purchase of own shares

116. The corporation may by authority of a special resolution purchase its own shares in any manner permitted by the Act.

Capitalisation of profits

117. The directors may resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the corporation's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would

have been entitled thereto if distributed by way of dividend and in the same proportions, on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full unissued shares or debentures of the corporation to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid or partly in the one way and partly in the other.

118. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorise a person to enter on behalf of all the members entitled thereto into an agreement with the corporation providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation, or, as the case may require, for the payment up by the corporation on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

Notices

119. A notice may be given by the corporation to any member either personally or by sending it by post to him or her at his or her registered address. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting, by airmail if the address is outside Naoero, a letter containing the notice and to have been effected ten days after the date of its posting.

[cl 119 am Act 21 of 2026 s 5, opn 12 May 2026]

120. A notice may be given by the corporation to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.

121. A notice may be given by the corporation to the persons entitled to a share in consequence of the death, bankruptcy or insolvency of a member by sending it through the post in a prepaid letter, by air mail if the address is outside Naoero addressed to them by name, or by the title of representatives of the deceased or assignee of the bankrupt or insolvent, or by a like description at the address, if any, 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, bankruptcy or insolvency had not occurred.

[cl 121 am Act 21 of 2026 s 5, opn 12 May 2026]

122.

(1) Notice of every general meeting shall be given in any manner hereinbefore authorised to:

(a) every member, other than holders of share warrants, except those members who have not supplied to the corporation an address for the giving of notices to them;

(b) every person entitled to a share in consequence of the death, bankruptcy or insolvency of a member, who but for his or her death, bankruptcy or insolvency would be entitled to receive notice of the meeting;

(c) the auditor for the time being of the corporation.

[subcl (1) am Act 21 of 2016 s 25, opn 12 May 2016]

(2) Subject to the provisions of paragraph (3) of this Article no other person shall be entitled to receive notices of general meetings.

(3) If pursuant to the terms of issue thereof there is endorsed on any share warrant issued by the corporation a statement that notices of general meetings of the corporation shall be advertised in a particular manner notices of all general meetings shall while any such share warrant is outstanding also be given by advertisement in such manner.

Winding-up

123. If the corporation is wound up the liquidator may divide amongst the members in kind the whole or any part of the assets of the corporation, whether they consist of property of the same kind or not, and may for that purpose set such value as he or she deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the members or different classes of members. The liquidator may vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

Indemnity

124. Every director, managing director, agent, auditor, secretary and other officer for the time being of the corporation shall be indemnified out of the assets of the corporation against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application under the Act in which relief is granted to him or her by the Court or Registrar in respect of any negligence, default, breach of duty or breach of trust.

[The next page is 34,201]

SCHEDULE 2

[Section 66]

TABLE C
TERMS OF DEBENTURE OF A CORPORATION

1. This Debenture secures the principal sum shown on its face payable in Australian dollars.
2. The principal sum is payable on demand by the Debenture Holder.
3. Until repayment this Debenture will carry interest at the rate (if any) shown on the face of this Debenture on the principal sum payable yearly.
4. The corporation is not entitled to redeem this Debenture without the Holder's consent.
5. The provisions of the *Corporations Act 1972* and of the Articles of the corporation giving the members or any class of the members of the corporation the right and power to vote and to demand a poll shall, so far as they relate to the corporation for the period while this Debenture is unredeemed, be void and of no effect for any purpose whatsoever and the provisions contained in Section 66(12)(a)–(h) inclusive of the Act shall apply.

[The next page is 37,001]

Corporation (Registration of Existing Companies) Regulations 1972

TABLE OF PROVISIONS

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Corporation (Registration of Existing Companies) Regulations 1972

TABLE OF AMENDMENTS

The Corporation (Registration of Existing Companies) Regulations 1972 were made and commenced on 26 July 1972.

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Business Licences (Non-Operational Businesses Record Keeping) Regulations 2023 SL 31	6 October 2023	reg 5(3): 6 October 2023

[The next page is 37,401]

IN EXERCISE of the powers conferred on it by Section 243 of the *Corporations Act 1972*, the Cabinet has made the following Regulations:

1 Citation

These Regulations may be cited as the *Corporation (Registration of Existing Companies) Regulations 1972*.

2 Applications for registration by existing companies

An application by a company incorporated prior to the commencement of Part 1 of the Act which continues in existence under the provisions of Section 3 of the Act to be registered as a corporation under the Act shall be made to the Registrar through a registered corporation agent on Form No 29 contained in Schedule 2 to the *Corporation (Forms) Regulations 1972*.

3 Contents of application

An application under Regulation 2 shall state whether the company when so registered is to be registered as a holding corporation or a trading corporation and shall set out the particulars of the authorised capital of the company and the shares into which it is divided as at the date of the application and shall set out the existing name of the company and the name by which the company is to be registered under the Act.

4 Registration

(1) Subject to the provisions of Section 19 of the Act, the Registrar shall on the making of an application under Regulation 2 and the payment of the prescribed fee register the company as a holding corporation or trading corporation, as the case may be, by the name set out in the application and issue a Certificate of Incorporation in the form of Form No 12 or Form No 14 as the case may be in Schedule 2 of the Corporation (Forms) Regulations.

[subreg (1) renum SL 31 of 2023 reg 5(3), opn 6 Oct 2023]

(2) The Registrar shall keep and maintain information provided for registration of a corporation under subregulation (1) for a period of at least 7 years from the date of voluntary or compulsory winding up or dissolution of the corporation.

[subreg (2) insrt SL 31 of 2023 reg 5(3), opn 6 Oct 2023]

(3) The shareholders and the secretary, individually or collectively of a corporation, which has been wound up or dissolved under the Act or ceased operations shall keep and maintain records of the corporation for a period of 7 years from the date of the winding up, dissolution or cessation of operations of the corporation.

[subreg (3) insrt SL 31 of 2023 reg 5(3), opn 6 Oct 2023]

5 Articles of Incorporation

Upon registration under Regulation 4, the Memorandum of Association and the Articles of Association of the company in force and filed with the Registrar of

Companies immediately prior to its registration as a corporation shall be deemed to be the Articles of Incorporation of the corporation when so registered.

6 New name

Upon registration under Regulation 4 the company shall be deemed to have changed its name to the name under which it is so registered and shall thereafter continue in existence as and have all the powers, rights, duties and liabilities of a holding corporation or trading corporation as the case may be incorporated under the Act but the change of name and registration of the company as a corporation shall not affect the identity of the company or any right or obligations of the company or render defective any proceedings by or against the company and any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

7 Prescribed fee

The prescribed fee payable to the Registrar upon an application for registration of an existing company as a corporation shall be $200.

8 Amendment of Corporation (Prescribed Fees) Regulations 1972

Regulation 4 of the *Corporation (Prescribed Fees) Regulations 1972* is amended by adding the words and figures "or Section (3)" after the word and figures "Section 15" therein.

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Corporation (Winding-up) Rules 1972

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FORM 1 — PETITION FOR A CORPORATION TO BE WOUND UP

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Corporation (Winding-up) Rules 1972

TABLE OF AMENDMENTS

The Corporation (Winding-up) Rules 1972 were notified and commenced on 10 August 1973 (GN No 158/1973; Gaz 34/1973).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 39,401]

IN EXERCISE of the powers conferred on me by Section 244 of the *Corporations Act 1972*, I hereby make the following Rules:

PART 1 — PRELIMINARY

1 Citation

These Rules may be cited as the *Corporation (Winding-Up) Rules 1972*.

2 Interpretation

In these Rules, unless the context otherwise requires:

'petition' means a petition under Section 178 of the Act to wind up a corporation;

'the Deputy Registrar' means the Deputy Registrar of the District Court; and

'the liquidator' means the liquidator of a corporation appointed by the court and includes a provisional liquidator.

3 Usual practice and procedure of Court to apply where no other provision made by those Rules

The practice and procedure of the District Court in civil causes and matters for the time being, including the practice and procedure in Chambers, shall apply in relation to proceedings in the District Court to wind up a corporation under the provisions of the Act except in so far as the Act and these Rules make other provision.

[The next page is 39,601]

PART 2 — PETITIONS

4 Title of proceedings

(1) Every petition under Section 178 of the Act shall be intitled "In the District Court", "In the matter of the *Corporations Act 1972*" and "In the matter of" the corporation to which the proceeding relates.

(2) All notices of motion, summonses, notices, affidavits and other documents in proceedings for the winding-up of a corporation shall be similarly intituled; where the corporation is in liquidation, the words "in liquidation" are to be added.

5 Form and presentation of petition

(1) Every petition shall be in Form No. CORP/W-U/1 of the Schedule to these Rules.

(2) Presentation of a petition shall be effected by producing the petition to the Deputy Registrar and filing a copy of it.

(3) The date and time of the presentation shall be endorsed upon both the original and copy petition by the Deputy Registrar.

(4) The Deputy Registrar, upon presentation of the petition, shall appoint a time and place for the hearing.

6 Verification of petition

(1) Every petition shall set out in the prayer thereof the nature of the relief sought and shall contain all the allegations necessary in support and shall be verified by an affidavit in Form No. CORP/W-U/2 of the Schedule to these Rules.

(2) The affidavit verifying a petition shall be made by the petitioner or, if there are more petitioners than one, by one of the petitioners or, where the petition is presented by a corporation, by a director, secretary or other principal officer, and shall be filed immediately after the petition has been presented, and such affidavit shall be sufficient *prima facie* evidence of the statements in the petition.

(3) When a petition is required to be served a copy of the verifying affidavit shall be served with the petition.

7 Time of hearing to be endorsed on petition

(1) When a time has been appointed for the hearing of the petition, notice of the time appointed shall be written on the petition and copies by the Deputy Registrar and the Deputy Registrar may at any time before the petition has been advertised alter the time appointed and fix another time.

(2) The original petition shall be filed with the Deputy Registrar before the date appointed for the hearing of the petition.

8 Petition to be served on corporation

Unless it is presented by the corporation of which the winding-up is sought, a petition shall be served on the corporation.

9 Members and creditors entitled to copies

Every member and every creditor of the corporation shall be entitled, on payment at the rate of 50 cents per foolscap page or part of it, to be furnished by the petitioner with a copy of the petition within 7 days after requiring the same.

10 Notice of intention to appear

(1) Every person who intends to appear on the hearing of a petition to wind up a trading corporation shall serve on the petitioner or his or her legal practitioner notice of his or her intention in Form No. CORP/W-U/3 of the Schedule to these Rules.

(2) The notice shall be signed by such person or by his or her legal practitioner and shall give the address of the person signing it and shall be served, or if sent by post shall be posted in such time as in ordinary course of post to reach the addressee not later than 24 hours before the time appointed for the hearing of the petition.

(3) A person who has failed to comply with this rule shall not, without the leave of the court, be allowed to appear on the hearing of the petition.

11 List of persons intending to appear

(1) The petitioner or his or her legal practitioner shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear on the hearing of the petition and of their respective legal practitioners, if any.

(2) On the day appointed for hearing the petition a fair copy of the list or, if no notice of intention to appear has been given, a statement to that effect shall be delivered by the petitioner or his or her legal practitioner to the Deputy Registrar prior to the hearing of the petition.

12 Affidavits opposing petition and affidavits in reply

(1) Affidavits in opposition to a petition shall be filed and a copy served on the petitioner or his or her legal practitioner not less than 7 days before the date appointed for the hearing of the petition.

(2) Any affidavit in reply to an affidavit filed in opposition to a petition, including a further affidavit in support of any of the facts alleged in the petition, shall be filed within 3 days of the date of service on the petitioner of the affidavit in opposition and a copy of the affidavit in reply shall be forthwith served on the opponent or his or her legal practitioner.

13 Substitution of another person as petitioner

(1) Where a petitioner is not entitled to present a petition or, whether so entitled or not, where he or she:

(a) fails to take all the steps prescribed by these Rules preliminary to the hearing of the petition;

(b) consents to withdraw his or her petition or to allow it to be dismissed or the hearing to be adjourned; or

(c) fails to appear in support of his or her petition when it is called on in court on the day originally fixed for the hearing or any day to which the

hearing has been adjourned or, if appearing, does not apply for an order in the terms of the prayer of his or her petition,

the court may, upon such terms as it may think just, substitute as petitioner a person who, in the opinion of the court, would have a right to present the petition and who is desirous of proceeding with the petition.

(2) An order to substitute a petitioner may, where a petitioner fails to advertise his or her petition within the time prescribed by or under these Rules or consents to withdraw his or her petition, be made by the Resident Magistrate at any time before the dated fixed for the hearing.

14 Trading corporation

In respect of every petition to wind up a trading corporation, the petitioner or his or her legal practitioner shall cause a notice in Form No. CORP/W-U/4 of the Schedule to these Rules to be published in the Gazette not less than 14 days before the date set for hearing the petition.

15 Court may order copy of petition to be sent to contributory or creditor of a holding corporation

On the hearing of a petition to wind up a holding corporation the court may direct that a copy of the petition be sent to any contributory or creditor and may adjourn the hearing in order to enable such contributory or creditor to appear and be heard in the matter, if he or she wishes.

[The next page is 39,801]

16 Notice of Winding-up Order and service of copies

(1) When an order is made by the court for the winding-up of a corporation, the petitioner shall forthwith inform the liquidator and within 14 days of the pronouncement of it:

(a) in the case of a trading corporation, cause a notice of the making of the order to be published in the Gazette; and

(b) serve upon the liquidator a copy of the order.

(2) A copy of the winding-up order shall be served by the petitioner upon the resident secretary of the corporation, unless the court otherwise directs.

(3) Every order for the winding-up of a corporation by the court shall, unless the court otherwise directs, contain at the foot a notice stating that it will be the duty of such of the persons who are liable to make out or concur in making out the corporation's statement of affairs as the liquidator may require to do so to attend on the liquidator at such time and place as he or she may appoint and to give him or her all information he or she may require.

17 Contributories and creditors entitled to attend

(1) Every person for the time being on the list of contributories of the corporation and every person whose proof has been admitted shall be at liberty at his or her own expense to attend proceedings in relation to the winding-up of a corporation by the court and shall be entitled upon payment of the costs occasioned thereby to have notice of all such proceedings as he or she shall request in writing.

(2) Where the court is of the opinion that the attendance of any such person upon any proceedings has occasioned additional costs which ought not to be borne by the funds of the corporation it may direct such costs or a gross sum in lieu to be paid by such person and such person shall not be entitled to attend any further proceedings until he or she has paid such costs.

(3) The court may from time to time appoint any one or more of the creditors or contributories to represent before the court at the expense of the corporation all, or any class of, the creditors or contributories upon any question or in relation to any proceedings before the court and may remove the person so appointed.

(4) Where more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same legal practitioner to represent them.

18 Attendance by liquidator

Where the attendance of the liquidator is required on any proceeding in court or Chambers, he or she need not attend in person except in cases where his or her presence is necessary or the court directs him or her to attend, but may be represented by a legal practitioner.

19 Statement of corporation's affairs

(1) Every person who under Section 186 of the Act has been required by the liquidator to submit and verify a statement as to the affairs of the corporation shall be furnished by the liquidator with forms and instructions for the preparation of the statement.

(2) For the purpose of investigating the corporation's affairs, the liquidator may from time to time hold, or may authorise another person to hold on his or her behalf, personal interviews with any such person as is mentioned in Section 186(2) of the Act, or may by written notice sent by post or delivered to any such person require him or her to answer in writing any questions relevant to those affairs and it shall be the duty of every such person to attend at such time and place as the liquidator or the person authorised by him or her may appoint and give the liquidator or that other person all the information that he or she may require or to answer fully in writing all the questions set out in the notice and send by post or deliver the answers to the liquidator, as the case may be.

(3) Where a person requires an extension of time for submitting the statement of affairs he or she shall apply to the liquidator who may, for special reasons, give a written certificate extending the time and that certificate shall be filed with the proceedings in the winding-up.

(4) After the statement of affairs of a corporation has been submitted to the liquidator it shall be the duty of every person who has made or concurred in making such statement to attend, if required, and answer all such questions as may be put to him or her by the liquidator and give all such further information as may be required of him or her in relation to the statement of affairs.

(5) Any default in complying with the requirements of Section 186 of the Act shall be reported by the liquidator to the court.

20 Costs of preparing statement of affairs

A person who is required to make or concur in making any statement of affairs of a corporation shall, before incurring any costs or expenses in and about the preparation and making of the statement, apply to the liquidator for his or her sanction and submit a statement of the estimated costs and expenses which it is intended to incur, and, except by order of the court, no person shall be allowed out of the assets of the corporation any costs or expenses which have not been sanctioned by the liquidator before being incurred.

[The next page is 40,001]

PART 4 — RESIGNATION AND REMOVAL OF LIQUIDATOR

21 Application by liquidator for leave to resign

(1) A liquidator intending to apply to the court for leave to resign his or her office shall give to all the contributories and creditors not less than 28 days' notice in writing in the English language of his or her intention. If requested to do so by any contributory or creditor, he or she shall summon a meeting of the contributories or the creditors, as the case may be, to be held before such application is made, so that it may be considered by the meeting.

(2) A person entitled to attend a meeting held under subrule (1) who is unable, or does not wish, to attend it may send by post or deliver to the liquidator before the meeting:
(a) one or more written questions;
(b) one or more written resolutions; and
(c) one or more notices that he or she wishes to vote for or against any resolution to be moved at the meeting,
and at the meeting the liquidator shall reply to such questions, put such resolutions to the vote and record any such votes, as the case may be:
Provided that, if the liquidator receives any such written questions not less than 10 days before the date fixed for the meeting, he or she shall send by post or deliver to the person concerned not less than 5 days before the meeting a written reply to those questions.

(3) Where a meeting of contributories or creditors is summoned under paragraph (1), the liquidator shall file with the Deputy Registrar before the hearing of his or her application for leave to resign his or her office a copy of every resolution relevant to that matter passed at the meeting.

(4) The court shall not grant leave to a liquidator to resign his or her office unless it is satisfied that:
(a) his or her removal will not prejudice the proper interest of any contributory or creditor; or
(b) there are such special circumstances as make it unreasonable to require the liquidator to continue in office.

(5) The court may impose such terms and conditions upon the granting to a liquidator of leave to resign his or her office as it considers reasonable in the circumstances.

(6) The court or the Resident Magistrate may dispense with all or any of the requirements of paragraph (1).

22 Removal of liquidator

(1) Subject to Section 197 of the Act, the court may, upon the application of the corporation, a contributory, a creditor or the Minister remove the liquidator:
(a) where the liquidator opposes the application, upon being satisfied that the liquidator has acted improperly in the winding-up of the corporation or in any matter relating to the corporation or has failed to perform his or her duties as liquidator in an efficient manner; or

(b) where the liquidator does not oppose the application, upon being satisfied that his or her removal will not prejudice the proper interests of any creditor or contributory.

(2) The court may impose such terms and conditions upon the removal of a liquidator as it considers reasonable in the circumstances of the case.

23 Copy of application for removal of liquidator to be sent to all concerned

Where an application is made to the court for removal of a liquidator, a copy of the application shall be sent by the applicant to every contributory and creditor of the corporation so as to reach him in ordinary course of post not later than 7 days before the date fixed for hearing the application:

Provided that, where the court has dispensed with the settlement of a list of contributories, it shall not be necessary to send a copy of the application to any contributory,

and provided further that, where under Rule 17 the court has appointed any contributory or creditor, or any one or more contributories or creditors, to represent before the court all, or any class of, the contributors or creditors for the purpose of the proceedings on the hearing of such application, it shall be sufficient compliance with this rule if, in respect of the contributories or creditors so represented, a copy of the application is sent to that representative or those representatives or his or her or their legal practitioner.

24 Application for a declaration of release

Application by a liquidator to the court under Section 210(3) of the Act for a declaration that he or she has been released shall be made *ex parte* by summons and shall be accompanied by a statement in Form No CORP/W-U/5 of the Schedule to these Rules showing the position of the corporation at the date of issue of the summons:

Provided that the court may, if it thinks fit, direct that the summons be served on any contributory or creditor.

[The next page is 40,201]

25 Power of court to give directions

The court may, upon application by the liquidator or any creditor or contributory or of its own motion, give directions generally as to the winding-up of a corporation and may, if it thinks fit, direct that the provisions of any of these Rules shall not apply, wholly or in part, to such winding-up.

26 Service of petition, notice of motion and summons

(1) Subject to any order of the court to the contrary, every petition, notice of motion and summons shall be served upon every person against whom any order or other relief is sought thereby but the court or the resident magistrate may at any time direct that service be effected or notice of the proceedings be given to a person who may be affected by the order or other relief sought and may at any time direct the manner in which such service is to be effected or such notice given and a person so served or notified shall be entitled to be heard.

(2) Any document referred to as an exhibit in an affidavit shall be made available for inspection by a person upon whom service of the affidavit is required.

27 Particulars prescribed by forms

(1) Where a form prescribed by these Rules requires completion by the insertion of particulars or other matters referred to in the form, those particulars or other matters are thereby prescribed as the particulars or other matters required under the provision of these Rules for the purposes for which the form is prescribed.

(2) A form prescribed by these Rules shall be completed in accordance with such directions as are specified in the form as so prescribed.

28 Substantial compliance with forms sufficient

Strict compliance with the forms contained in the Schedule to these Rules is not necessary and substantial compliance is sufficient.

[The next page is 40,401]

SCHEDULE

FORMS TO BE USED IN WINDING-UP PROCEEDINGS

FORM 1

PETITION FOR A CORPORATION TO BE WOUND UP

FORM NO CORP/W-U/1

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

[Rule 5]

In the District Court

Winding-up Petition No

In the matter etc

The petitioner, of , prays that the

Corporation, a corporation* /foreign corporation incorporated* /registered under the *Corporations Act 1972*, be wound up by the Court under the provisions of the said Act on the following grounds:-

(State grounds alleged as in Section 179 of the Act)

or that such other order be made in the matter as shall be just.

Dated the day of , 20 .

Petitioner

*Delete whichever is not applicable.

FORM 2

AFFIDAVIT VERIFYING PETITION

FORM NO CORP/W-U/2

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

[Rule 6]

In the District Court

Winding-up Petition No

In the matter etc

I, of , make oath and say:

(1) that I am the petitioner*/one of the petitioners in the above matter* /a director*/ secretary of the Corporation, the petitioner in the above matter;

(2) that such of the statements in the petition now shown to me and marked with the letter "A" as relate to my own* /the petitioner's acts and deeds are true and such of the said statements as relate to the acts and deeds of any other person I believe to be true.

Sworn etc.

* Delete whichever is not applicable.

FORM 3

NOTICE OF INTENTION TO APPEAR

FORM NO CORP/W-U/3

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

[Rule 10]

In the District Court

Winding-up Petition No

In the matter etc

To: , the petitioner.

Take notice that of

a creditor* /contributory of the above corporation, intends to appear on the hearing of the petition by for the corporation to be wound up and to support*/ oppose such petition.

(Signed)

* Delete whichever is not applicable.

FORM 4

NOTICE OF WINDING-UP PETITION

FORM NO CORP/W-U/4

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

[Rule 14]

Name of corporation:

Address of corporation's registered office in Naoero:

Take notice that a petition by of
for the winding-up of the above trading corporation by the District Court under the provisions of the *Corporations Act 1972* is directed to be heard at the Court House at Yaren at a.m.*/p.m. on 20 .

Any member or creditor of the corporation who wishes to support or oppose the petition is required to notify the petitioner in the prescribed form by not later than a.m.* /p.m. on the , 20 .

Any contributory or creditor who fails so to notify the petitioner by that time will not be entitled to appear on the hearing of the petition except with the leave of the Court.

Dated the day of , 20 ,

Petitioner.

* Delete whichever is not applicable.

[Form 4 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 5

STATEMENT TO ACCOMPANY LIQUIDATOR'S SUMMONS FOR RELEASE

FORM NO CORP/W-U/5

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

[Rule 24]

In the District Court

Winding-up Petition No

In the matter etc

The position of the corporation at the date of this statement is –

	Estimated to produce per Corporation's Statement	Receipts		Payments
	$ ¢	$ ¢		$ ¢
To total receipts from date of winding-up order, viz: (state particulars under the several headings specified in the statement of affairs)			By fees (including stationery, printing, and postages in respect of contributories, creditors, and for debtors, and fee for audit)	
			$ ¢	
			Law costs of petition	
Receipts per trading account			Law costs of solicitor to liquidator	
Other receipts			Other law costs	
Total			Liquidator's remuneration, viz:	
			$ ¢	
			per cent on $	
	$ ¢		Assets realised	
Less:			per cent on $	
Payments to redeem securities			Assets distributed in dividend	
Costs of execution				

	Estimated to produce per Corporation's Statement	Receipts		Payments
	$ ¢	$ ¢		$ ¢
Payments per trading account			Shorthand writer's charges	
		$	Special manager's charges	
			Person appointed to assist in preparation of statement of affairs	
Net realizations		$	Auctioneer's charges as taxed Other taxed costs	
Amounts received from calls on contributories made by the liquidator			Costs of possession and maintenance of estate	
		$	Costs of notices in Gazette and newspapers	
			Incidental outlay	
			Total cost and charges	
			Creditors, viz: $ ¢	
			(a) Preferential	
			(b) Unsecured:	
			Dividend of ¢ in the $ on $	
			The estimate of amount expected to rank for dividend was $	
			Amount returned to contributories	
			Balance	
		$		$

[The next page is 42,001]

Corporation (Appeals) Rules 1972

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Interpretation
3	Appeals from orders of the District Court
4	Appeals from the Registrar of Corporations to be by petition
5	Registrar of Corporations to deliver relevant documents to the Court
6	Provisions of Supreme Court Act 2018 to apply to appeals from the Registrar of Corporations
7	Appeals to be commenced ex parte
8	Form of petition
	SCHEDULE
	FORM 1 — PETITION OF APPEAL

[The next page is 42,201]

Corporation (Appeals) Rules 1972

TABLE OF AMENDMENTS

The Corporation (Appeals) Rules 1972 were made and commenced on 2 October 1972.

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 42,401]

IN EXERCISE of the powers conferred on me by Section 244 of the *Corporations Act 1972*, I hereby make the following Rules:

1 Citation

These Rules may be cited as the *Corporation (Appeals) Rules 1972*.

2 Interpretation

In these Rules:

'the Court' means the Supreme Court.

3 Appeals from orders of the District Court

Subject to Rules 7 and 8, the provisions of the *Supreme Court Act 2018* and of rules of court made thereunder shall apply *mutatis mutandis* to appeals to the Supreme Court under Section 245(3) of the Act in respect of any order of the District Court as they apply to appeals from the District Court to the Supreme Court in civil causes and matters.

4 Appeals from the Registrar of Corporations to be by petition

Every appeal to the Supreme Court under subsection (1) of Section 245(1) of the Act in respect of any decision, order or approval given, made or refused by the Registrar of Corporations shall be commenced by lodging a petition with the Registrar of Courts.

5 Registrar of Corporations to deliver relevant documents to the Court

(1) Where an appeal is commenced under Rule 4, the appellant shall cause a copy of the petition to be served on the Registrar of Corporations on the same day on which the petition is lodged with the Registrar of Courts.

(2) Upon receipt of the copy, the Registrar of Corporations shall prepare and sign a written statement of the reasons for the decision, order or approval, the subject of the appeal, and not later than 7 days after receipt of the copy of the petition shall deliver that statement to the Registrar of Courts together with one copy and of the application to which it relates and of every document on his or her files relevant thereto.

(3) The Registrar of Courts, upon receiving the statement and the other documents referred to in subrule (2), shall forthwith send the copy of the statement by post to the appellant at the address for service specified in his or her petition.

(4) When directions have been given as to the persons to be joined as respondents, the appellant shall, unless a Judge otherwise orders, upon payment of the prescribed fee obtain from the Registrar of Courts a photographic copy of the statement and of every other document delivered by the Registrar of Corporations under subrule (2) and cause a copy of such statement and of every other such document to be served personally on every respondent together with the copy of the petition.

6 Provisions of Supreme Court Act 2018 to apply to appeals from the Registrar of Corporations

Subject to Rules 4, 5, 7 and 8, the provisions of the *Supreme Court Act 2018* and of rules of court made thereunder shall apply *mutatis mutandis* to appeals to the Supreme Court in respect of decisions, orders and approvals made, given or refused by the Registrar of Corporations.

7 Appeals to be commenced ex parte

(1) Every appeal shall be commenced *ex parte* and the appellant shall apply to the Supreme Court by summons for directions as to the persons to be served as respondents.

(2) Applications under subrule (1) shall be heard, and directions thereon given, by the Registrar of Court, who shall at the same time fix a date for the hearing of the appeal by the Court:

Provided that on the hearing of any appeal the Court may direct that any other person be joined as a respondent.

(3) Where the Registrar directs that a person be served as a respondent in any appeal proceedings, the appellant shall cause a copy of the petition, endorsed with the date and time of hearing, to be served personally on the respondent not less than ten days before the date set for the appeal to be heard and, if he or she fails to do so, the Court may, unless it is shown that the failure was due to circumstances beyond the appellant's control, dismiss the appeal.

8 Form of petition

The petition in an appeal to the Supreme Court under Section 245 of the Act shall be in the form set out in the Schedule to these Rules.

[The next page is 42,601]

SCHEDULE

FORM 1

PETITION OF APPEAL

CORPORATIONS ACT 1972

CORPORATION (WINDING-UP) RULES 1972

In the Supreme Court — Corporation Appeal No

In the matter of section of the *Corporations Act 1972*

The appellant, of , hereby appeals to the Supreme Court against the decision*/order*/approval given*/made*/refused by the District Court*/the Registrar of Corporations on the 20 , that is to say (give details of the decision given*/order made*/approval refused).

The grounds of appeal are –

(enumerate all the grounds of appeal in a clear and concise manner)

The appellant accordingly prays –

(state clearly and concisely the order sought by the appellant)

Dated the day of 20 .

Appellant/Barrister and*

solicitor/pleader for appellant*

The appellant's address in Naoero for service of process and documents in this appeal is –

ENDORSEMENT

The appeal will be heard by the Supreme Court at the Court House at Yaren at a.m.*/p.m. on the of , 20 .

*Delete whichever is not applicable.

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 44,001]

Corporation (Forms) Regulations 1972

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Interpretation
3	Forms in schedule to be used
4	Strict compliance with forms not necessary
5	Directions in forms
6	Particulars on accompanying documents
7	Application where no special form prescribed
8	General provisions relating to forms and other documents
	SCHEDULE 1 — LIST OF FORMS
	SCHEDULE 2
	FORM 1 — REQUEST TO NAOERO GOVERNMENT COMMERCIAL AUTHORITY
	FORM 2 — MEMORANDUM OF INCORPORATION OF A HOLDING CORPORATION
	FORM 3 — MEMORANDUM OF INCORPORATION OF A TRADING CORPORATION
	FORM 4 — NOTICE OF APPOINTMENT OF REGISTERED DIRECTOR
	FORM 5 — NOTICE OF SITUATION OF REGISTERED OFFICE AND OF CHANGE OF REGISTERED OFFICE
	FORM 6 — RETURN OF PARTICULARS OF DIRECTORS AND SECRETARIES
	FORM 7 — RETURN OF DEBENTURES
	FORM 8 — RETURN OF ALLOTMENT OF SHARES (Holding Corporation)
	FORM 9 — RETURN OF ALLOTMENT OF SHARES (Trading Corporation)
	FORM 10 — CERTIFICATE BY REGISTERED CORPORATION AGENT
	FORM 11 — FORM OF ANNUAL RETURN OF A CORPORATION
	FORM 12 — FIRST CERTIFICATE OF INCORPORATION OF A HOLDING CORPORATION

Title

FORM 13 — RENEWED CERTIFICATE OF INCORPORATION OF A HOLDING CORPORATION

FORM 14 — FIRST CERTIFICATE OF INCORPORATION OF A TRADING CORPORATION

FORM 15 — RENEWED CERTIFICATE OF INCORPORATION OF A TRADING CORPORATION

FORM 16 — REGISTRAR OF CORPORATIONS OFFICE ENQUIRY AS TO AVAILABLILITY OF NAME

FORM 17 — APPLICATION FOR RESERVATION OF NAME

FORM 18 — NOTICE OF INCREASE IN SHARE CAPITAL

FORM 19 — APPLICATION BY AN INDIVIDUAL FOR APPOINTMENT AND REGISTRATION AS A CORPORATION AUDITOR

FORM 20 — APPLICATION BY A CORPORATION/*FIRM FOR APPOINTMENT AND REGISTRATION AS A CORPORATION AUDITOR

FORM 21 — CONSENT TO ACT AS A DIRECTOR

FORM 22 — APPLICATION FOR REGISTRATION OF A FOREIGN CORPORATION

FORM 23 — DECLARATION OF AUTHORISED CAPITAL OF A FOREIGN CORPORATION

FORM 24 — CONSENT OF AGENT

FORM 25 — NOTICE OF CESSER OF AGENT

FORM 26 — FIRST CERTIFICATE OF REGISTRATION OF A FOREIGN CORPORATION

FORM 27 — RENEWED CERTIFICATE OF REGISTRATION OF A FOREIGN CORPORATION

FORM 28 — RETURN BY A FOREIGN CORPORATION OF ALTERATION OF PARTICULARS

FORM 29 — GENERAL FORM OF APPLICATION TO THE REGISTRAR

FORM 30 — RECEIVER'S ACCOUNT

FORM 31 — APPLICATION FOR CERTIFICATE AS TO WINDING-UP

FORM 32 — REQUEST BY MEMBER OF HOLDING CORPORATION TO ENTER SHARES IN OFFICIAL REGISTER

FORM 33 — CAVEAT

FORM 34 — STATEMENT OF PARTICULARS TO BE LODGED WITH CHARGE

FORM 35 — CERTIFICATE OF REGISTRATION OF CHARGE

[The next page is 44,201]

Corporation (Forms) Regulations 1972

TABLE OF AMENDMENTS

The Corporation (Forms) Regulations 1972 were made and commenced on 29 March 1972 (GN No 84/1972; Gaz 14/1972).

Amending Legislation	Notified	Date of Commencement
Corporations (Forms) Amendment Regulations 1978	19 April 1978	regs 3, 4: 19 April 1978
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 44,401]

IN EXERCISE of the powers conferred on it by Section 243 of the *Corporations Act 1972* the Cabinet has made the following Regulations:

1 Citation

These Regulations may be cited as the *Corporation (Forms) Regulations 1972*.

2 Interpretation

In these Regulations, **'the Act'** means the *Corporations Act 1972*.

3 Forms in schedule to be used

Where a provision of the Act or of these Regulations is specified in the first column of Schedule 1 to these Regulations, the Form set out in Schedule 2 to these Regulations the number of which is specified in the third column of Schedule 1 opposite to that provision is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in the second column of Schedule 1 opposite to that provision.

4 Strict compliance with forms not necessary

Strict compliance with the forms contained in Schedule 2 to these Regulations is not necessary, and substantial compliance is sufficient.

5 Directions in forms

A form prescribed by these Regulations shall be completed in accordance with such directions as are specified in the form as so prescribed.

6 Particulars on accompanying documents

Where the Act requires prescribed particulars to be set out in a document to be lodged with the Registrar the particulars required to be included in the form set out in the Schedule for the purpose shall, unless express provision to the contrary is made by any other regulation made under the Act, be the prescribed particulars.

7 Application where no special form prescribed

Where application is made to the Registrar under any provision of the Act and there is no other form specifically provided for the purpose such application may be made on the general form in Form 29 in Schedule 2, adopted and completed as may be necessary for the purpose.

8 General provisions relating to forms and other documents

A document to be lodged with the Registrar in pursuance of the Act or these Regulations shall comply with the following requirements:

(a) the document shall be on paper of medium weight and good quality and:

  (i) in the case of a memorandum, articles or a prospectus, of a size not less than 8½ inches deep by 5¼ inches wide and not more than foolscap folio size; or

(ii) in any other case, of foolscap folio size or a multiple of that size;

(b) subject to the Act, the document shall be printed or handwritten and shall be clearly legible;

(c) except with the consent of the Registrar, the document shall not be a carbon copy;

(d) subject to the next following paragraph, the document shall have a margin of not less than one inch on the lefthand side and a margin of not less than one-half an inch on the righthand side;

(e) where the document comprises two or more sheets:

(i) the sheets shall be bound together securely; and

(ii) each sheet shall have a margin of not less than one inch on the side on which it is bound in addition to any space required for binding;

(f) where the document comprises more than 20 sheets, it shall be bound securely inside a durable and flexible cover; and

(g) the document shall be folded lengthwise and, as so folded, shall have endorsed on the outside:

(i) on the upper left-hand corner, the registered number alloted by the Registrar to the corporation to which the document relates;

(ii) the name of the corporation to which the document relates;

(iii) the title of the document, being, if the document is a form prescribed by these Regulations, the same as the heading to the form;

(iv) the name of the registered corporation agent or other person by whom the document is lodged; and

(v) the following words:

"Lodged in the office of the Registrar of Corporations on

Registrar of Corporations."

[The next page is 44,601]

SCHEDULE 1

[Regulation 3]

LIST OF FORMS

[Sch am GN No 90 of 1978 reg 3, opn 19 Apr 1978; Act 21 of 2026 s 5, opn 12 May 2026]

FIRST COLUMN Section of Act of Regulation	SECOND COLUMN Description	THIRD COLUMN Number of Form
9	Application by individual for appointment and registration as corporation auditor	19
9	Application by corporation or firm for appointment and registration as corporation auditor	20
15(2)	Certificate by registered corporation agent	10
15(3)	First certificate of incorporation of holding corporation	12
15(3)	First certificate of incorporation of trading corporation	14
15(4)	Renewal of certificate of incorporation of holding corporation	13
15(4)	Renewal of certificate of incorporation of trading corporation	15
15(10)	Request to Naoero Commercial Authority	1
15(11)	Notice of appointment of registered director	4
16(1)	Memorandum of incorporation of holding corporation	2
16(1)	Memorandum of incorporation of trading corporation	3
19(5)	Application for reservation of name	17
43	Return of allotment of shares (holding corporation)	8
43	Return of allotment of shares (trading corporation)	9
61(3)	Notice of increase of share capital	18
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86(2)	Request by members of holding corporation to enter shares in official Register	32
86(3)	Caveat	33
91(1)	Statement of particulars to be lodged with charge	34
93(1)	Statement of particulars to be lodged with charge (pre-existing)	34
94(2)	Certificate of registration of charge	35
101(4)	Notice of situation or close of registered office	5
104	Consent to act as director	21
111	Return of particulars of directors and secretaries	6
133	Annual return	11
157(1)	Receiver's account	30
161(1)	Application for certificate as to winding-up	31
225(1)	Application for registration of a foreign corporation	22
225(1)	Declaration of authorised capital of a foreign corporation	23
225(1), (4)	Consent of agent	24
225(4)	Notice of cesser of agent	25
225(7)	First certificate of incorporation of foreign corporation	26
225(7)	Renewal of certificate of incorporation or foreign corporation	27
226(1)	Return of foreign corporation of alteration in particulars	28
226(1)	Notice of situation and change of registered office (foreign corporation)	5
226(1)	Return of particulars of directors and secretaries (foreign corporation)	6
226(2)	Notice of increase in share capital (foreign corporation)	18
Regulation		
6	Enquiry as to availability of name	16
6	General form of application to Registrar	29

[The next page is 44,801]

SCHEDULE 2

FORM 1



REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(10) and Regulation 3]

REQUEST TO NAOERO GOVERNMENT COMMERCIAL AUTHORITY

1. I,. . . . . of. . . . . , in respect of the Memorandum of Incorporation of. . . . . delivered herewith request that no shares or share warrants be issued to me and that I be not a member of that corporation and that one share be issued on incorporation to the Authority.

NOMINATION

2. I nominate. . . . . for the purpose of Section 15(17) of the Act.

REQUEST

3. I request that a/no debenture be issued. *

4. I direct that the debenture to be issued pursuant to the above request is to be issued to. . . . . .

DATED the day of 20 .

. . . . . .
Signature

* Delete whichever is inapplicable

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 16(1)]

MEMORANDUM OF INCORPORATION OF A HOLDING CORPORATION

1. The name of the corporation is . . . . . .

2. The corporation is a holding corporation.

3. The share capital of the corporation is. . . . . divided into . . . . . shares of $. . . . . each. . . . . shares of $. . . . . each.

4. The subscriber/s* to this Memorandum is/are* desirous of forming a corporation in pursuance of this Memorandum and respectively* agree/s* to take the number and class of shares in the capital of the corporation set out opposite his/her/their* respective name/s*.

SUBSCRIBER/S*

	Name	Number of Shares	Class	Signature or seal
Strike out if inapplicable	The Naoero Government Commercial Authority	1	Ord.	

DATED the day of 20 .

NOTE: (1) This Memorandum is not effective until sealed by the Registrar of Corporations.

(2) * Delete where inapplicable.

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 16(1)]

MEMORANDUM OF INCORPORATION OF A TRADING CORPORATION

1. The name of the corporation is . . . . . .

2. The corporation is a trading corporation.

3. The share capital of the corporation is $. . . . . divided into. . . . . shares of $. . . . . each and. . . . . shares of $. . . . . each.

4. The subscribers to this Memorandum are desirous of forming a corporation in pursuance of this Memorandum and respectively agree to take the number and class of shares in the capital of the corporation set out opposite their respective names.

SUBSCRIBERS

Name	Number of Shares	Class	Signature

DATED the day of 20 .

NOTE: This Memorandum is not effective until sealed by the Registrar of Corporations.

[Form 3 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 4

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(11)]

NOTICE OF APPOINTMENT OF REGISTERED DIRECTOR

TO: . . . . . .†

1. The Naoero Government Commercial Authority being the only subscriber to the Memorandum of Incorporation of . . . . . Holding Corporation hereby appoints you pursuant to Section 15 of the *Corporations Act 1972* the sole director of that Corporation to act upon your current "Standard Terms".
2. The name and address of the person who made the request referred to in Section 15(10) of the Act is. . . . . .
3. The nomination for the purposes of Section 15(17) of the Act is . . . . . .
4. You are required to issue/not to issue* a form of debenture.
5. The name and address of the person to whom the form of debenture is to be sent is . . . . . .
6. The amount of the form of debenture is the sum of

   Registered director's fees:
   Registered secretary's fees:_____
   TOTAL:
7. The date of incorporation of the Corporation is. . . . . .

DATED the day of 20

Naoero Government Commercial Authority

* Strike out whichever is inapplicable

† Insert name of registered director

[Form 4 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 5

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Sections 101(4) and 226(1)]

NOTICE OF SITUATION OF REGISTERED OFFICE AND OF CHANGE OF REGISTERED OFFICE

. . . . . .
(Name of Corporation)

As from the . . . . . day of . . . . . 20. . . . . the registered office of the above named corporation is at . . . . . .

. . . . . .
Director/ Secretary*

* Strike out whichever is inapplicable

[Form 5 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 6

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Sections 111 and 226(1)]

RETURN OF PARTICULARS OF DIRECTORS AND SECRETARIES

OF .....
(Name of Corporation)

Full Name	Address and Occupation	Nature of Appointment or Change and Date
Registered Director (if any)		
Other Directors		
Resident Secretary		
Other Secretaries (if any)		

DATED the day of 20 .

.....
Director/Secretary

[Form 6 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 7

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 70]

RETURN OF DEBENTURES

1. The name of the corporation is. . . . . .
2. The corporation has issued †. . . . . bearer debentures which bear the numbers ‡. . . . . .
3. All the debentures incorporate/do not incorporate* the provisions of Table C in full.
   OR*
   Debentures numbered ‡. . . . . incorporate the provisions of Table C in full and debentures numbered ‡. . . . . do not incorporate the provisions of Table C in full.
4. Debentures numbered ‡. . . . . have been issued by the corporation and are registered on a debenture register kept at. . . . . (If there is insufficient space to include all the details, a schedule showing the registers upon which particular debentures are registered shall be attached.)
5. The amount of all debentures issued at this date is $. . . . . .
6. The sum of $ ..... is secured by debentures upon the whole or part of the assets of the corporation.

DATED the day of 20 .

. . . . . .
Secretary

* Strike out whichever is inapplicable

† Insert the number of debentures issued

‡ Insert the serial numbers of the debentures

[Form 7 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 8

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 43]

RETURN OF ALLOTMENT OF SHARES (HOLDING CORPORATION)

. . . . . .

(Name of Holding Corporation)

The shares referred to below were allotted on the day of 20

Class of Share	Number of Shares Allotted	Nominal Amount of Shares	Amount Paid or Deemed to be Paid or Due and Payable on the Allotment of Each Share	Amount Not Due and Payable on Allotment Liable to be Paid up after Allotment

DATED the day of 20 .

. . . . . .

Director/ Secretary

[Form 8 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 9

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 43]

RETURN OF ALLOTMENT OF SHARES (TRADING CORPORATION)

. . . . . .
(Name of Trading Corporation)

The shares referred to below have been allotted on the day of 20 .

Class of Shares	Number of Shares Allotted	Nominal Amount of Shares	Amount Paid or Deemed to be Paid or Due and Payable on the Allotment of Each Share	Amount Not Due and Payable on Allotment but Liable to be Paid up after Allotment

. . . . . shares were fully paid up/paid up to the extent of . . . . . per share otherwise than in cash.

* pursuant to a contract in writing a copy of which is lodged herewith;

* pursuant to a contract not in writing particulars of which are attached;

* pursuant to the provision of Article . . . . . of the corporation's Articles;

* in satisfaction of a dividend not payable in cash pursuant to the resolution a copy of the minute of which is attached.

The particulars of the numbers and classes of shares issued to bearer and, in the case of other shares, the full names and addresses of the allottees and the number and class of shares issued to each are set out on the back of this form/annexed hereto*.

DATED the day of 20 .

. . . . . .
Director/Secretary

* Strike out if inapplicable.

[Form 9 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 10

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(2)]

CERTIFICATE BY REGISTERED CORPORATION AGENT

. . . . . , a registered corporation agent, does hereby certify that –

* all of the requirements of the *Corporations Act 1972* in respect of a corporation to be known as. . . . . have been complied with

* the following requirements of the *Corporations Act 1972* in respect of a corporation to be known as . . . . . have been complied with, viz:

DATED the day of 20 .

. . . . . .
Registered Corporation Agent

* Delete whichever is inapplicable

[Form 10 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 44,901]

FORM 11

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 133]

FORM OF ANNUAL RETURN OF A CORPORATION

Annual Return of . . . . . made up to the . . . . . day of . . . . . 20. . . . . * (being the date of or a date not later than the fourteenth day after the date of the Annual General Meeting in 20).

1. The date of the Annual General Meeting of the corporation was . . . . . 20. . . .
   (Note: a holding corporation is not obliged to hold an Annual General Meeting).
2. The address of the registered office of the corporation is. . . . . .
3. The address at which the register of members is kept, if other than the registered office, is. . . . . .

CERTIFICATE

I/We after having made due inquiries certify:

(a) having made an inspection of the share register that. . . . . transfers have been registered since the date of the last annual return/* the incorporation of the corporation/* registration under the *Corporations Act 1972*;

(b) that the corporation has not, since the date of the last annual return, issued any invitation to the public to subscribe for any shares in or debentures of the company or to deposit monies for fixed periods or payable at call;

(c) that there are now. . . . . members of the company (counting joint holders of shares as one person);

(d) that, to the best of our knowledge and belief the company is a trading/*holding corporation and has been a trading/*holding corporation for the purposes of the *Corporations Act 1972* since the date of the previus return/* incorporation of the corporation/*registration under the Act;

(e) that the audit or(s) of the corporation appointed on. . . . . 20. . . . . , by a general meeting/* the directors is/* are. . . . . .

DATED the day of 20 .

Signature . . . . . Director
Signature. . . . . Secretary

SUMMARY OF SHARE CAPITAL AND SHARES

4.	Nominal share capital $.	. . . . . shares of $	. . . . . each
		. . . . . shares of $	. . . . . each
		. . . . . shares of $	. . . . . each
5.	Total number of shares taken up to the . . . . . day of . . . . . 20 . . . . . (being the date of the return or other authorised date).		. . . . .
6.	Number of shares issued subject to payment wholly in cash.		. . . . .
7.	Number of shares issued as fully paid up otherwise than in cash.		. . . . .
8.	Number of shares issued as partly paid up to the extent of $ . . . . . per share otherwise than in cash.		. . . . .
9.	Number of shares, if any, of each class issued at a discount.		. . . . .
10.	Total amount of discount on the issue of shares which has not been written off at the date of this return.		$ . . . . .
11.	There has been called up on each of . . . . . shares.		$ . . . . .
12.	There has been called up on each of . . . . . shares.		$ . . . . .
13.	There has been called up on each of . . . . . shares.		$ . . . . .
14.	Total amount of calls received, including payments on application and allotment.		$ . . . . .
15.	Total amount, if any, agreed to be considered as paid on . . . . . shares which have been issued as fully paid up otherwise than in cash.		$ . . . . .
16.	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.		$ . . . . .
17.	Total amount of calls unpaid.		$ . . . . .
18.	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.		$ . . . . .
19.	Total amount of the sums, if any, allowed by way of discount in respect of any debentures since the date of the last return.		$ . . . . .
20.	Total number of shares, if any, forfeited		. . . . .
21.	Total amount paid, if any, on shares forfeited		$ . . . . .
22.	Total number of shares, if any, reacquired by the corporation and cancelled.		$ . . . . .
23.	Total amount paid, if any, on shares reacquired by the corporation and cancelled.		$ . . . . .

24.	Total amount of the indebtedness of the company in respect of all charges which are required to be registered with the Registrar of Corporations.	$ .....

PARTICULARS OF REGISTERED CHARGES REGISTERED IN NAOERO

Registered Number	Date of Registration	Amount of indebtedness at the date of this return

25. Particulars of the Directors, Managers, Secretaries and Auditors of the corporation at the date of the Annual Return.

Present Christian or other name or names and surname	Any former Christian or other name or names and surname	Usual address, usual residential address in case of directors

DIRECTORS:

MANAGER (if any):

SECRETARIES:

AUDITORS FOR CURRENT FINANCIAL YEAR:

26. (This paragraph is to be completed only in the case of a trading corporation.) List of persons holding shares in . . . . . on the . . . . . day of . . . . . 20 . . . . . (being the date of the return or other authorised date) and on account of the shares so held.

Folio No.	Names	Addresses	Shares held

27. Number of bearer shares held in. . . . . on the . . . . . day of . . . . . 20 . . . . . (being the date of the return or other authorised date) and an a ccount of the shares so held.

Folio No.	Shares held

* Delete if not applicable

[Form 11 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 12

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(3)]

FIRST CERTIFICATE OF INCORPORATION OF A HOLDING CORPORATION

No. H/ . . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that ..... is on and from the ..... day of ..... 19 ..... incorporated under the *Corporations Act 1972*, that the corporation is a **HOLDING CORPORATION** and that this Certificate of Incorporation expires on the ..... day of ..... 20 .....

GIVEN under my hand and seal at Yaren this. . . . . .day of. . . . . 20. . . . .

. . . . . .
Registrar of Corporations.

ATTENTION is directed to the requirements of Section 15 of the *Corporations Act 1972* and to regulations made under the Act relating to annual renewal of Certificates of Incorporation and the liabilities incurred by directors and officers in consequence of a corporation carrying on business after expiry of its Certificate of Incorporation.

[Form 12 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 13

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(4)]

RENEWED CERTIFICATE OF INCORPORATION OF A HOLDING CORPORATION

No. H/. . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that the **CERTIFICATE OF INCORPORATION** whereby. . . . . was on the. . . . . day of. . . . . 19. . . . . incorporated under the *Corporations Act 1972* as a **HOLDING CORPORATION** has been renewed and that this Certificate of Renewal of Registration expires on the. . . . . day of. . . . . 20. . . . . .

GIVEN under my hand and seal at Yaren this . . . . . .day of. . . . . 20. . . . . .

. . . . . .
Registrar of Corporations

ATTENTION is directed to the requirements of Section 15 of the *Corporations Act 1972* and to regulations made under the Act relating to annual renewal of Certificates of Incorporation and the liabilities incurred by directors and officers in consequence of a corporation carrying on business after expiry of its Certificate of Incorporation.

[Form 13 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 14

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(3)]

FIRST CERTIFICATE OF INCORPORATION OF A TRADING CORPORATION

No. T/. . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that ..... in on and from the ..... day of ..... 20 ..... incorporated under the *Corporations Act 1972*, that the corporation is a corporation limited by shares, that the corporation is a **TRADING CORPORATION** and that this Certificate of Incorporation expires on the ..... day of ..... 20 .....

GIVEN under my hand and seal at Yaren this . . . . . .day of. . . . . 20. . . . . .

. . . .
Registrar of Corporations

ATTENTION is directed to the requirements of Section 15 of the *Corporations Act 1972* and the regulations made under the Act relating to annual renewal of Certificates of Incorporation and the liabilities incurred by directors and officers in consequence of a corporation carrying on business after expiry of its Certificate of Incorporation.

[Form 14 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 15

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 15(4)]

RENEWED CERTIFICATE OF INCORPORATION OF A TRADING CORPORATION

No. T/. . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that the **CERTIFICATE OF INCORPORATION** whereby,..... was on the ..... day of ..... 20 ..... incorporated under the *Corporations Act 1972* as a **TRADING CORPORATION** has been renewed and that this Certificate of Renewal of Registration expires on the ..... day of .....20 .....

GIVEN under my hand and seal at Yaren this . . . . . day of. . . . . .
20. . . . .

. . . . . .
Registrar of Corporations

ATTENTION is directed to the requirements of Section 15 of the *Corporations Act 1972* and to regulations made under the Act relating to annual renewal of Certificates of Incorporation and the liabilities incurred by directors and officers in consequence of a corporation carrying on business after expiry of its Certificate of Incorporation.

[Form 15 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 16

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Regulation 6]

REGISTRAR OF CORPORATIONS OFFICE
ENQUIRY AS TO AVAILABLILITY OF NAME

I,. . . . . ,
hereby enquire as to the availability of the name of
. . . . . as
(Insert proposed name)

* the name of an intended corporation;
* the name to which . . . . . .
proposes to change its name; (insert present name of corporation)
* the name under which a foreign corporation proposes to register;
* the name to which a foreign corporation . . . . . .
proposes to change its name. (insert name of foreign corporation)

* Strike out whichever is inapplicable

Registrar of Corporations, Naoero.
Date:

TO: . . . . . .
. . . . . .
. . . . . .

Dear Sir,

With reference to your enquiry as to availability of the name. . . . . .
* At this date there is no objection to the proposed name. . . . . .
* The name is available subject to. . . . . .
* The name is not available for the following reason. . . . . .

Note: This notification does not reserve the name presently available. To reserve the name the prescribed fee of $5 together with Form 17 shall be sent to this office.

Yours faithfully,

Registrar of Corporations.

* Strike out if not applicable

[Form 16 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 45,001]

FORM 17

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 19(5)]

APPLICATION FOR RESERVATION OF NAME

TO THE REGISTRAR OF CORPORATIONS

I, ... , **HEREBY APPLY** for the reservation of the name. . . . . as

(insert proposed name)

* the name of an intended corporation;

* the name to which . . . . . proposed to change its name;

* the name under which . . . . . a foreign corporation proposes to be registered either originally or on change of name.

DATED the day of 20 .

(Signature). . . . . .

* Strike out if not applicable

For Office Use Only	Name Reserved From	Name Undesirable: Reason

Registrar of Corporations,
Naoero.
Date:

TO: . . . . . .
. . . . . .
. . . . . .

Dear Sir,

With reference to your application for reservation of the name. . . . . .

The proposed name has been reserved for six months from. . . . . and may be extended for a similar period upon written request with reasons, accompanied by the prescribed fee of $5, received within the period of the reservation.

The proposed name is undesirable by reason of. . . . . .

Yours faithfully,

Registrar of
Corporations.

[Form 17 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 18

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Sections 61(3) and 226(2)]

NOTICE OF INCREASE IN SHARE CAPITAL

. . . . . .
(Name of Corporation)

TO THE REGISTRAR OF CORPORATIONS

1. . . . . hereby gives notice that on the . . . . . day of . . . . . 20 . . . . . the authorised share capital of the corporation was increased from. . . . . to . . . . . .
2. The additional capital is divided as follows:

Number of Shares	Class of Shares	Nominal Amount of Each Share

DATED the day of 20 .

. . . . . .
Director
Secretary
Corporation Agent

LOCAL & FOREIGN CORPORATIONS: This form shall be lodged within 28 days after the passing of the resolution

A signed copy of the resolution authorising the increase in share capital shall be lodged with this form.

FEE: The prescribed fee shall be lodged herewith.

[Form 18 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 19

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 9]

APPLICATION BY AN INDIVIDUAL FOR APPOINTMENT AND REGISTRATION AS A CORPORATION AUDITOR

I, *. . . . . of**
. . . . . ., do hereby solemnly and sincerely declare that:-

#1. I am a duly registered corporation auditor under the law relating to corporations in† . . . . . and I carry on practice as such at ‡. . . . . .

#1. I have the following professional qualifications, namely: . . . . . and carry on practice as a corporation auditor at ‡. . . . . .

#2. Annexed hereto and marked with the letter "A" is a photographic copy of my Certificate of Registration as a registered corporation auditor which at the time of my making this declaration has not lapsed or been revoked.

#2. Annexed hereto and marked with the letter "A" is a photographic copy of my certificate/s, diploma(s) etc., evidencing the professional qualifications referred to in paragraph 1 above.

3. In the event of my ceasing to be a registered corporation auditor/# to possess professional qualifications referred to in paragraph 1 above or to carry on practice as a corporation auditor in ‡. . . . . I undertake forthwith to advise the Registrar of Corporations for the Republic of Naoero of it and the reasons for it.

4. I hereby make application to the Registrar of Corporations for the Republic of Naoero for appointment and registration as a Corporation Auditor under and for the purposes of the *Corporations Act 1972*.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of ##

DECLARED by the deponent on the . . . . . day of . . . . . 20. . . .

. . . . . .
Signature of Deponent

Before me:

. . . . . .
Signature and capacity of competent witness

Cross out whichever is inapplicable

To be completed according to the requirements of the law relating to statutory declarations in the place of making.

* Full name(s)

** Full residential address and occupation

† Name of State and/ or Country

‡ Full address of professional office.

NOTE

1. The above declaration may be witnessed by a person competent to take statutory declarations in the place of making: e.g. a Justice of the Peace, a Commissioner for Oaths, a Barrister or Solicitor as the case may be.

2. The photo-copy certificate, etc., shall be marked "A" at the top and have endorsed upon it the following:

"This is the annexure marked "A" referred to in the annexed declaration of (full name) made at . . . . . the . . . . . day of . . . . . 20. . . . ., before me:
. . . . . ."(Signature and capacity of witness)

3. The registration fee of $10 shall be enclosed with this application. The fee may be paid by money order payable to the Republic of Naoero.

[Form 19 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 20

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 9]

APPLICATION BY A CORPORATION/*FIRM FOR APPOINTMENT AND REGISTRATION AS A CORPORATION AUDITOR

1. I, , of being*** of†† of††† hereby apply on behalf of the above-named Corporation/*firm for its appointment and registration as a corporation auditor and do hereby solemnly declare and affirm that in carrying out its duties as a corporation auditor the above-named corporation/*firm will provide the services of one or more persons registered as corporation auditors under this Act to do, or to supervise the doing of, the audit work done by the above-named corporation/*firm.
2. The above-named corporation/*firm undertakes to permit any registered corporation auditor appointed by the Registrar to inspect and report on all or any of its working papers relating to any audit work being done by it at any time.
3. ‡ The members of the above-named firm are:

   and the above-named firm undertakes to notify the Registrar forthwith of every change in its membership.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of‡‡

DECLARED by the deponent on the) day of 20) ..... before me:) Signature of Deponent

....

Signature and capacity of competent witness

* Delete whichever is not applicable.

† Director, secretary, managing partner, etc.

†† Name of corporation or firm.

††† Address of corporation or firm.

‡ To be included only by a firm.

‡‡ To be completed according to the requirements of the law relating to statutory declarations in the place of making.

Notes: 1. The above declaration may be witnessed by a person competent to take statutory declarations in the place of making, e.g. a Justice of the Peace, a Commissioner for Oaths, a Barrister or Solicitor, as the case may be.

2. The registration fee of $10 shall be enclosed with this application. The fee may be paid by money order payable to the Republic of Naoero.

[Form 20 subst GN No 90 of 1978 reg 4, opn 19 Apr 1978; am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 21

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 104]

CONSENT TO ACT AS A DIRECTOR

TO THE REGISTRAR OF CORPORATIONS

I /We* the undermentioned person(s) hereby consent to act as director(s) of

. . . . . .

Full Name	Address	Description

DATED the day of 20 .

. . . . . .
. . . . . .
. . . . . .
(Signature(s))

* Strike out whichever is inapplicable

FEE:

[Form 21 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 22

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 225(1)]

APPLICATION FOR REGISTRATION OF A FOREIGN CORPORATION

. . . . . .
(Name of Foreign Corporation)

A corporation incorporated according to the law of having its principal office registered at hereby makes application for registration as a foreign corporation and furnishes the following:

(a) a certified copy of the certificate of its incorporation or registration or a document of similar effect;

(b) a certified copy of its charter, statute or memorandum and articles or other instrument constituting or defining its constitution;

(c) a list of its directors and officers as follows:

Directors	Address	Former Names (if any)
Secretary		
Auditors		

(d) a memorandum stating the powers of the local directors resident in Naoero, if any;

(e) a memorandum of appointment or power of attorney under the seal of the foreign corporation or executed on its behalf and verified in the prescribed manner stating the name and address of the registered corporation agent in Naoero authorised to accept on its behalf service of process and any notice required to be served on the corporation together with the written consent of such agent to the appointment;

the name of such registered corporation agent is. . . . . .

. . . . . .
(insert the name of registered corporation agent)

(f) the situation of the registered office in Naoero is at

. . . . . .

(g) a declaration in the prescribed form setting out particulars of its authorised capital.

DATED the day of 20 .

THE COMMON SEAL of the above-mentioned was hereto affixed pursuant to a resolution of its board or governing body.

. . . . . .
Director / Secretary

[Form 22 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 45,101]

FORM 23

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 225(1)]

DECLARATION OF AUTHORISED CAPITAL OF A FOREIGN CORPORATION

1. The name of the foreign corporation is. . . . . .
. . . . . .
(insert name of foreign corporation)
2. I, ... of. . . . . .
. . . . . being the
. . . . . of the above-mentioned
(secretary/director or other officer)
do hereby declare that the authorised capital of the above-mentioned foreign corporation is $. . . . . .

DATED the day of 20 .

. . . . . .
(Signature)

NOTE: This declaration shall accompany Form No.

[Form 23 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 24

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 225(1) and (4)]

CONSENT OF AGENT

* ..... being a registered corporation does here by consent to being appointed agent in Naoero of the foreign corporation

** .....

.....
Registered Corporation Agent

* Name of Agent

** Name of Foreign Corporation

[Form 24 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 25

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 225(4)]

NOTICE OF CESSER OF AGENT

Take notice that on the ..... day of ..... 20 ..... * ..... the agent in Naoero of **..... † ceased/will cease to be agent of that corporation.

DATED the day of 20 .

. . . . . .

†Agent/Corporation

* Name of agent

** Name of foreign corporation

† Delete whichever is inapplicable

[Form 25 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 26

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 225(7)]

FIRST CERTIFICATE OF REGISTRATION OF A FOREIGN CORPORATION

NO. FC/. . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that ..... is on and from the ..... day of .....20 ..... registered under the *Corporations Act 1972* as a foreign corporation and that this Certificate of Registration expires on the ..... day of ..... 20 .....

GIVEN under my hand and seal at Yaren this. . . . . day of. . . . . 20. . . . .

. . . . . .
Registrar of Corporations

ATTENTION is directed to the requirements of Section 265 of the *Corporations Act 1972* and to regulations made under the Act relating to annual renewal of Certificates of Registration and to the provisions of Section 15 of the said Act.

[Form 26 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 27

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 255(7)]

RENEWED CERTIFICATE OF REGISTRATION OF A FOREIGN CORPORATION

NO. FC/. . . . . .

Valid until 20 only.

THIS IS TO CERTIFY that the **Certificate of Incorporation** whereby . . . . . was on the . . . . . day of. . . . . 20. . . . . registered under the *Corporations Act 1972* as a foreign corporation has been renewed and that the Certificate of Renewal of Registration expires on the. . . . . day of. . . . . 20. . . . .

GIVEN under my hand and seal at Yaren this. . . . . day of. . . . . 20. . . . .

. . . . . .
Registrar of Corporations

ATTENTION is directed to the requirements of Section 265 of the *Corporations Act 1972* and to regulations made under the Act relating to annual renewal of Certificates of Registration and to the provisions of Section 15 of the said Act.

[Form 27 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 28

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 226(1)]

RETURN BY A FOREIGN CORPORATION OF ALTERATION OF PARTICULARS

1. The particulars filed in relation to the foreign corporation called. . . . . .
. . . . . .
(insert name of foreign corporation)
changed on the . . . . . day of. . . . . 20 . . . . in the following respects:

DATED the day of 20 .

. . . . . .
Secretary, agent or officer

[Form 28 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 29

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Regulation 6]

GENERAL FORM OF APPLICATION TO THE REGISTRAR

1. Application is made by. . . . . pursuant to section of the *Corporations Act 1972* for (insert the order, direction, approval or the like sought). . . . . .
2. The grounds upon which this application is made are shortly as follows:. . . . . .
3. This application is lodged by. . . . . .
   (insert name of registered corporation agent)
   to whom any requisitions or requirements for further information may be directed.

DATED the day of 20 .

. . . . . .
Secretary

[Form 29 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 30

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 157(1)]

RECEIVER'S ACCOUNT

. . . . . .
(Name of Corporation)

I, ... of . . . . . .
(name of receiver)
. . . . . as receiver (or ex-receiver) of the abovenamed corporation hereby lodge the following account:

Date of my appointment as receiver:. . . . . .

Date of lodgement of my last account as receiver of this corporation:. . . . . .

Date of ceasing to act as receiver of this corporation:. . . . . .

Period of this account: from. . . . . to. . . . . .

Receiver's Account

Debtor	Receipts $ ¢	Creditor	Payments $ ¢
Total	_____	Total	_____

Aggregate amount of receipts during all preceding periods since my appointment as receiver of this corporation: . . . . . .

Aggregate amount of payments during all preceding periods since my appointment as receiver of this corporation: . . . . . .

I have*/have not been appointed pursuant to the powers contained in an instrument: .....

*The amount owing under that instrument at the time of my appointment was: .....

*The amount owing under that instrument at the date of commencement of this account was: .....

*The amount owing under that instrument at the date of my ceasing to be receiver of this corporation was: .....

*The total value of all assets of the corporation which are at the date hereof subject to that instrument: .....

DATED the day of 20

.....
Receiver

NOTE: This account is to be verified by Statutory Declaration (see Section 157(b))

* Delete if inapplicable.

[Form 30 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 31

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 161(1)]

APPLICATION FOR CERTIFICATE AS TO WINDING-UP

APPLICATION is made for the issue of a certificate stating whether at the date thereof the corporation called. . . . . .

(insert name of corporation)

is being wound up or a petition has been presented for the winding-up of the corporation and is pending.

2. The certificate is to be sent to. . . . . .

(Name)

. . . . . .

(Address)

. . . . . .

. . . . . .

(State and country)

3 The fee of $5 (which may be sent by money order in favour of the Republic of Naoero) is enclosed.

DATED the day of 20

. . . . . .

Applicant

NOTE: If a reply is sought by telegram, cable, telex or wireless an additional fee of $5 to defray the cost is payable. Unless this additional fee is paid the certificate wi1l be sent in the ordinary course of post.

[Form 31 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 32

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 86(2)]

REQUEST BY MEMBER OF HOLDING CORPORATION TO ENTER SHARES IN OFFICIAL REGISTER

I, ...of . . . . . being a member of . . . . . a holding corporation duly incorporated under the *Corporations Act 1972* hereby request the Registrar of Corporations to enter in the Official Register established under Section 86 in the said Act the particulars set forth in Section 86(4) of the said Act in respect of the shares described in the share certificate(s)/share warrant(s) produced herewith the beneficial owner whereof is. . . . . of. . . . . The person(s) to whom a certificate as to the contents of the register in respect of the said shares may be given is/are. . . . . of . . . . . and. . . . . of . . . . . The enclosed share certificates/warrants are to be returned to *me/or. . . . . .

FORM 33

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 86(3)]

CAVEAT

TO THE REGISTRAR OF CORPORATIONS

TO THE REGISTRAR OF CORPORATIONS

I, ... of . . . . . .
. . . . . , claiming
a beneficial interest in . . . . class shares numbered . . . . . .
to . . . . . inclusive in the corporation
called. . . . . .
as owner/mortgagee or. . . . . of
(strike out if inapplicable and insert basis of claim)
the said shares lodge this Caveat under Section 86 of the said Act and require notice of any entry relating to these shares to be given to me at the above address.

DATED the day of 20

. . . . . .
Caveator

[Form 33 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 34

REPUBLIC OF NAOERO

CORPORATIONS ACT 1972

[Section 91(1) and 93(1)]

STATEMENT OF PARTICULARS TO BE LODGED WITH CHARGE

The name of the corporation is. . . . . .

1. The charge is given by:
2. The date of the creation of the charge is:
3. The description of the instrument creating or evidencing the charge is:
4. The amount secured by the charge is:
5. A short description of the property affected is:
6. The names and addresses of the persons entitled to the charge are:

DATED the day of 20

. . . . . .
Director/Secretary/agent/officer

[Form 34 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 35

REPUBLIC OF NAOERO

No. of Corporation. . . . . .

CORPORATIONS ACT 1972

[Section 94(2)]

CERTIFICATE OF REGISTRATION OF CHARGE

THIS IS TO CERTIFY that an instrument dated the. . . . . day of. . . . . 20. . . created by. . . . . in favour of. . . . . to secure. . . . . has this day been registered and numbered . . . . . in the register of charges.

GIVEN under my hand and seal at Yaren this . . . . . .day of. . . . . 20 . . . . .

. . . . . .
Registrar of Corporations

[Form 35 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 47,001]

Corporation (Prescribed Fees) Regulations 1972

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Fees
3	Time for payment
4	Refund of half incorporation fee to Naoero corporations
5	Exemptions
	SCHEDULE — PRESCRIBED FEES

[The next page is 47,201]

Corporation (Prescribed Fees) Regulations 1972

TABLE OF AMENDMENTS

The Corporation (Prescribed Fees) Regulations 1972 were notified and commenced on 29 March 1972 (GN No 84/1972; Gaz 14/1972).

Amending Legislation	Notified	Date of Commencement
Corporation (Registration of Existing Companies) Regulations 1972	26 July 1972	reg 8: 26 July 1972
Corporation (Prescribed Fees) (Amendment) Regulations 1979	9 April 1979	reg 3: 7 May 1979
Corporation (Prescribed Fees) (Amendment) Regulations 1982	1 September 1982	reg 3: 1 September 1982
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 47,401]

IN EXERCISE of the powers conferred on it by Section 243 of the *Corporations Act 1972*, the Cabinet has made the following Regulations:

1 Citation

These Regulations may be cited as the *Corporation (Prescribed Fees) Regulations 1972*.

2 Fees

Where any provision in the Act or in any regulations made thereunder provides for the payment of a prescribed fee, the fee to be paid shall be the fee set out in the Schedule hereto for that matter and shall be payable to, and receivable by, the Registrar.

3 Time for payment

Where a prescribed fee is payable in respect of a document lodged with the Registrar, that fee shall be paid on the lodgment of that document.

4 Refund of half incorporation fee to Naoero corporations

The Registrar shall, upon application made by any corporation after the expiry of any period for which that corporation has paid a fee under the provisions of Section 15 or 243 of the Act or upon the dissolution of that corporation before the expiry of that period, and upon being satisfied that that corporation is a Naoero corporation and has been a Naoero corporation throughout the whole of the period in respect of which that fee was paid, refund to that corporation one half of that fee.

[reg 4 am Corp (REC) Regs 1972 reg 8, opn 26 July 1972; Act 21 of 2026 s 5, opn 12 May 2026]

5 Exemptions

Every corporation incorporated by and registered upon the application of the Naoero Government Commercial Authority is exempted from fee no. 8 in respect of the notice of the situation of its registered office and the return containing particulars of its directors, registered directors and secretaries required to be lodged by the corporation within one month of the date of incorporation by virtue of the provisions of Sections 101 and 111 respectively of the Act:

Provided that the exemption granted by this Regulation shall not have effect in respect of any notice or return not lodged within one month of the date of the incorporation of the corporation.

[reg 5 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 47,601]

SCHEDULE

[Regulation 2]

PRESCRIBED FEES

[Sch subst GN No 145 of 1979 reg 3, opn 7 May 1979; am GN No 261 of 1982, opn 1 Sep 1982; Act 21 of 2026 s 5, opn 12 May 2026]

Fee No.	Section under which payable	Matter for which payable	Amount of fee
1	12	Inspection of the document kept by the Registrar in respect of any corporation	$4
2	12	Obtaining a copy of or an extract from any one document kept by the Registrar	$7.50
3	15	On application to incorporate a corporation and on every subsequent application for renewal of incorporation	
		(a) where the application is made by the Naoero Government Commercial Authority	$300
		(b) in all other cases	$250
4	19	On application for reservation of name	$10
5	161	On application for a Certificate	$10
6	209	On application for date of dissolution to be deferred	$150 for any period up to 6 months
7	218	On application for the name of a corporation to be restored to the register	$100
8	225	On lodging documents for the registration of a foreign corporation and on every application for renewal of registration	$250

9	Passim	On any application lodged with, and on the lodging of any document required to be lodged with, the Registrar if not a matter to which any of Fees Nos. 1 to 8 hereof relate:	
		(a) if lodged within the statutory period	$15
		(b) if lodged outside the statutory period – for every month or part of a month out of time in lodging, in addition to the fee payable at (a)	$30

[The next page is 49,001]

Corporation (Appeal Fees) Regulations 1973

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Fees to be paid on appeal to the Supreme Court

[The next page is 49,201]

Corporation (Appeal Fees) Regulations 1973

TABLE OF AMENDMENTS

The Corporation (Appeal Fees) Regulations 1973 were made and commenced on 23 November 1973.

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 49,401]

IN EXERCISE of the powers conferred on it by Section 243 of the *Corporations Act 1972*, the Cabinet has made the following Regulations:

1 Citation

These Regulations may be cited as the *Corporation (Appeal Fees) Regulations 1973*.

2 Fees to be paid on appeal to the Supreme Court

(1) Upon filing in the Supreme Court a petition of appeal under the provisions of the *Corporation (Appeals) Rules 1972*, the appellant shall pay to the Registrar of Courts a fee of $20.

(2) The appellant shall pay to the Registrar of the Supreme Court 20 cents for every photographic copy of a document supplied to him or her by the Registrar under Rule 5(4) of the *Corporation (Appeals) Rules 1972*.

(3) No fees other than those required by subregulations (1) and (2) shall be payable to the Court in respect of any appeal to the Supreme Court under Section 245 of the Act.

[The next page is 51,001]

Corporation (Proof and Ranking of Claims) Regulations 1973

TABLE OF PROVISIONS

Regulation	*Title*
	PART 1 — PRELIMINARY
1	Citation
2	Interpretation
	PART 2 — PROOF OF CLAIMS
3	Application of this Part
4	Fixing of date by which debts are to be proved
5	Advertisement and notice of date fixed
6	Mode of proof
7	Time for dealing with proofs
8	Appeal against rejection of proof
9	Application to expunge proof improperly admitted
10	Liquidator to file proof with court
11	No appeal against order under Regulation 8 or Regulation 9
12	Liquidator may administer oaths and take affidavits
13	Liquidator generally not liable for costs
	PART 3 — RANKING OF DEBTS
14	Application of this Part
15	Ranking of secured debts
16	Ranking of unsecured debts

[The next page is 51,201]

Corporation (Proof and Ranking of Claims) Regulations 1973

TABLE OF AMENDMENTS

The Corporation (Proof and Ranking of Claims) Regulations 1973 were made and commenced on 23 November 1973.

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 51,401]

IN EXERCISE of the powers conferred on it by Sections 176 and 243 of the *Corporations Act 1972*, the Cabinet has made the following Regulations:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Corporation (Proof and Ranking of Claims) Regulations 1973*.

2 Interpretation

In these Regulations:

'corporation' includes a foreign corporation.

[The next page is 51,601]

PART 2 — PROOF OF CLAIMS

3 Application of this Part

This Part of these Regulations applies to the compulsory winding-up of both trading corporations and holding corporations, to the voluntary winding-up of trading corporations and to the liquidation in the Republic of foreign corporations.

4 Fixing of date by which debts are to be proved

The court or the liquidator, as the case may be, shall not fix a date for the proof of debts and claims under Section 177 of the Act until the liquidator has received the statement of the corporation's affairs under Section 186 of the Act or, if he or she has not received any such statement, until he or she has made such an investigation of the affairs of the corporation as he or she considers necessary to enable him or her to acquaint himself or herself with its affairs.

5 Advertisement and notice of date fixed

Immediately upon the date being fixed under Section 177 for proof of debts and claims, the liquidator shall give notice in the Gazette and give written notice to every person who appears from the statement of the corporation's affairs or the liquidator's investigation of its affairs to be one of its creditors.

6 Mode of proof

A creditor wishing to prove his or her debt or claim shall deliver or send to the liquidator an affidavit verifying the debt or claim and:

(a) giving particulars; and

(b) stating whether the creditor is or is not a secured creditor,

and shall exhibit or annexe to the affidavit any vouchers in his or her possession substantiating the particulars or photographic copies not less clear than the original vouchers.

7 Time for dealing with proofs

(1) The liquidator shall, within 28 days after receiving a proof with which he or she has not previously dealt, inform in writing the person who submitted it whether he or she admits it or rejects it wholly or in part or by written requisition require him or her to submit further evidence in proof of it.

(2) Where the liquidator rejects a person's proof, he or she shall state in writing to that person the grounds for its rejection.

8 Appeal against rejection of proof

A person whose proof is rejected wholly or in part may, within 28 days of being notified of such rejection, appeal to the District Court and the District Court may make such order thereon as it thinks just.

9 Application to expunge proof improperly admitted

Where a proof has been improperly admitted, the liquidator, a contributory or a

creditor may apply to the District Court at any time before the winding-up is completed for the proof to be expunged or the amount reduced, and the District Court may make such order thereon as it thinks just.

10 Liquidator to file proof with court

Upon making an application to the District Court under Regulation 9 or being notified in writing by the appellant or the applicant, as the case may be, of an appeal being commenced under Regulation 8 or an application being made by a creditor or a contributory under Regulation 9, the liquidator shall file with the Deputy Registrar of the District Court the proof to which the appeal or application relates, together with a memorandum setting out his or her grounds for his or her decision to allow or reject it.

11 No appeal against order under Regulation 8 or Regulation 9

No appeal shall lie to any court or tribunal against an order of the District Court under Regulation 8 or Regulation 9.

12 Liquidator may administer oaths and take affidavits

For the purpose of any of his or her duties in relation to proof of debts and claims, a liquidator may administer oaths and take affidavits.

13 Liquidator generally not liable for costs

Unless the District Court otherwise orders, a liquidator shall not be personally liable for costs in relation to any appeal under Regulation 8 or any application under Regulation 9.

[The next page is 51,801]

PART 3 — RANKING OF DEBTS

14 Application of this Part

This Part of these Regulations applies to the compulsory winding-up of trading corporations and holding corporations and, subject to Section 229(3) of the Act, to the liquidation in Naoero of foreign corporations.

[reg 14 am Act 21 of 2026 s 5, opn 12 May 2026]

15 Ranking of secured debts

Subject to the provisions of the Act relating to debts and claims to be paid in preference thereto, debts which are a charge upon the assets of the corporation shall, subject to Regulation 16(4), be paid in a winding-up in priority to debts which are not charges on those assets with such priority inter se as is provided for by the Act and by the instruments creating the respective charges.

16 Ranking of unsecured debts

(1) After the payment of the debts and claims referred to in Regulation 15, unsecured debts and claims shall be paid in a winding-up in the following order of priority:

(a) first, all wages and salaries, whether or not earned wholly or in part by way of commission, including any amount payable by way of allowance or reimbursement under any contract of employment or any award or agreement regulating conditions of employment, or any employee not exceeding $500 whether for time or piecework in respect of services rendered by him or her to the corporation within a period of 4 months before the commencement of the winding-up;

(b) second, all amounts due in respect of worker's compensation under any law relating to worker's compensation accrued before the commencement of the winding-up;

(c) third, all remuneration payable to any employee in respect of annual leave or long service leave or both, or in the case of his or her death to any other person in his or her right, accrued in respect of any period before the commencement of the winding-up;

(d) fourth, all debts owed to the Republic; and

(e) fifth, all other debts.

(2) The debts in each class specified in paragraph (1) shall rank equally between themselves and shall be paid in full, unless the property of the corporation is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Where any payment has been made to any employee of the corporation on account of wages, salary, annual leave or long service leave, or to the Republic on account of any debt owed by the corporation to the Republic, out of money advanced by a person for that purpose, the person by whom the money was advanced 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 the employee or the Republic would have been entitled to priority in the winding-up has been diminished by reason of the

payment, and shall have the same right of priority in respect of that amount as the employee or the Republic would have had if the payment had not been made.

(4) So far as the assets of the corporation available for payment of general creditors are insufficient to meet any debts specified in paragraph (1)(a) and (c) and any amount payable in priority to payment of general creditors by virtue of payments made to employees in respect of any such debts under subregulation (3), those debts shall have priority over the claims of the holders of debentures under any floating charge created by the corporation and shall be paid accordingly out of any property comprised in or subject to that charge.

(5) Where the corporation is, under a contract of insurance entered into before the commencement of the winding-up, insured against liability to third parties, then, if any such liability is incurred by the corporation either before or after the commencement of the winding-up and an amount in respect of that liability is or has been received by the corporation or the liquidator from the insurer, the amount shall, after deducting any expenses of or incidental to getting in such amount, be paid by the liquidator to the third party in respect of whom the liability was incurred to the extent necessary to discharge that liability or any part of that liability remaining undischarged in priority to all payments in respect of the debts referred to in paragraph (1).

(6) Where the liability of the insurer to the corporation is less than the liability of the corporation to the third party, nothing in subregulation (5) shall limit the rights of the third party in respect of the balance.

(7) The provisions of subregulations (5) and (6) shall have effect notwithstanding any agreement to the contrary entered into after the commencement of these Regulations.

(8) Where in any winding-up assets have been recovered under an indemnity for costs of litigation given by certain creditors, or have been protected or preserved by the payment of monies or the giving of indemnity by creditors, or where expenses in relation to which a creditor has indemnified a liquidator have been recovered, the Court may make such order as it deems just with respect to the distribution of those assets and the amount of those expenses so recovered with a view to giving those creditors an advantage over others in consideration of the risk run by them in doing so.

[The next page is 53,001]

Corporation (Shares Expressed in other Currencies) Regulations 1976

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Currencies in which shares may be expressed
3	Articles of the corporation
4	Repeal
	SCHEDULE — COUNTRIES IN WHOSE CURRENCIES SHARES MAY BE EXPRESSED

[The next page is 53,201]

Corporation (Shares Expressed in other Currencies) Regulations 1976

TABLE OF AMENDMENTS

The Corporation (Shares Expressed in other Currencies) Regulations 1976 were made and commenced on 18 February 1976.

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 53,401]

IN EXERCISE of the powers conferred on it by Section 51 of the *Corporations Act 1972*, the Cabinet has made the following Regulations:

1 Citation

These Regulations may be cited as the *Corporation (Shares Expressed in Other Currencies) Regulations 1976*.

2 Currencies in which shares may be expressed

Subject to the provisions of these Regulations, shares of a corporation incorporated in Naoero may be expressed in the currency of any of the countries named in the Schedule to these Regulations.

[reg 2 am Act 21 of 2026 s 5, opn 12 May 2026]

3 Articles of the corporation

Where the shares of a corporation incorporated in Naoero are expressed in the currency of any of the countries named in the Schedule to these Regulations, the corporation shall adopt and lodge with the Registrar special articles of incorporation which shall include the following article:

"With respect to the shares of the corporation expressed in the currency of (*name of country*) the following provisions shall apply:

(1) For the purpose of paying up any amount payable on the allotment or on a call payable in respect of shares expressed in the currency of (*name of country*) the person liable to make the payment shall be entitled to tender the currency of (*name of country*) or its equivalent in Australian currency.

(2) Any amount payable by the corporation to shareholders whose shares are expressed in the currency of (*name of country*) whether in payment of a dividend or on a return of capital or otherwise shall be paid in the currency of (*name of country*) or in Australian currency, at the option of the corporation.

(3) For the purpose of calculating the amount to be paid in Australian currency in respect of a dividend payable on shares expressed in the currency of (*name of country*), the rate of exchange shall be the prescribed rate of exchange as at the date of declaration of the dividend.

(4) Where the amount required to be paid in Australian currency for the purpose of paying up any amount on a share expressed in the currency of (*name of country*) is to be calculated, the conversion from the currency of (*name of country*) to Australian currency shall be calculated using the prescribed rate of exchange as at the date on which the call is payable or, if there is no call, as at the date upon which the payment-up takes place.

(5) Where shares are expressed in the currency of (*name of country*), all calls made on those shares shall be expressed in the currency of (*name of country*) and shall specify the equivalent in Australian currency calculated as aforesaid.

(6) For the purpose of calculating any amount payable in Australian currency by the corporation to shareholders whose shares are expressed in the

currency of (*name of country*) otherwise than as a dividend, the rate of exchange shall be the prescribed rate of exchange as at the date on which such amount first becomes payable.

(7) For the purpose of calculating the amount paid up on issued shares expressed in the currency of (*name of country*) in any balance sheet or other account kept or issued by the corporation, the rate of exchange shall be the prescribed rate of exchange as at the date of the call, or the respective dates of the calls, in respect of which payment-up has been made or, in the case of any payment-up which has been made otherwise than as the result of a call, as at the date upon which that payment-up has taken place.

(8) The prescribed rate of exchange shall be the telegraphic transfer rate of exchange at which the Bank of New South Wales in Melbourne, Australia, will buy the currency of (*name of country*)."

[reg 3 am Act 21 of 2026 s 5, opn 12 May 2026]

4 Repeal

The *Corporation (Shares Expressed in Canadian Currency) Regulations 1972* are repealed:

Provided that, where under the provisions of those Regulations a corporation has adopted and lodged with the Registrar special articles of incorporation complying with the requirements of Regulation 2 thereof, those special articles shall for the purposes of these Regulations be deemed to comply with the requirements of Regulation 3 of these Regulations.

[The next page is 53,601]

SCHEDULE

[Regulation 2]

COUNTRIES IN WHOSE CURRENCIES SHARES MAY BE EXPRESSED

Austria
Belgium
Canada
Denmark
Eire
France
Germany (Federal Republic)
Holland
Hong Kong
Iran
Italy
Japan
Luxembourg
Norway
Saudi Arabia
Singapore
Spain
Sweden
Switzerland
Thailand
United States of America
United Kingdom

[The next page is 55,001]

Corporations (Forms and Fees) Regulations 2018

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Commencement
3	Repeal of *Corporation (Fees) Regulations 2017*
4	Definitions
5	Fees
6	Application for incorporation of a corporation
7	Renewal of a Certificate of Incorporation
8	Consent of Directors
9	Annual return
	SCHEDULE 1 — FEES
	SCHEDULE 2
	FORM 1 — APPLICATION FORM FOR INCORPORATION OF CORPORATION
	FORM 2 — RENEWAL FORM FOR INCORPORATION OF CORPORATION
	FORM 3 — CONSENT OF DIRECTORS
	SCHEDULE 3
	FORM 1 — ANNUAL RETURN OF A CORPORATION

[The next page is 55,201]

Corporations (Forms and Fees) Regulations 2018

TABLE OF AMENDMENTS

The Corporations (Forms and Fees) Regulations 2018 were notified on 11 January 2019 and commenced on 15 January 2019 (reg 2).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 55,401]

The Cabinet makes the following Regulations under Section 243 of the *Corporations Act 1972*:

1 Citation

These Regulations may be cited as the *Corporations (Forms and Fees) Regulations 2018*.

2 Commencement

These Regulations come into effect on 15 January 2019.

3 Repeal of *Corporation (Fees) Regulations 2017*

The *Corporations (Fees) Regulations 2017* are hereby repealed and replaced by these Regulations.

4 Definitions

In these Regulations:

'business' means any form of economic activity, trade, profession, commerce, craftsmanship, calling or other activity carried on for the purpose of generating revenue for gain.

5 Fees

The fees to be paid to the Registrar under the Act are set out in Schedule 1 of these Regulations.

6 Application for incorporation of a corporation

The prescribed form for an application for incorporation of a corporation is set out in Form 1 of Schedule 2.

7 Renewal of a Certificate of Incorporation

The prescribed form for the renewal of a Certificate of Incorporation is set out in Form 2 of Schedule 2.

8 Consent of Directors

A person who consents to act as director of a corporation shall lodge the prescribed form as set out in Form 3 of Schedule 2.

9 Annual return

For the purpose of Section 133 of the Act, the prescribed form for Annual Return is set out in Schedule 3.

[The next page is 55,601]

SCHEDULE 1

[Regulation 5]

FEES

ITEM	$
Incorporation and registration of a corporation: Memorandum of Association Articles of Association Certificate of Incorporation Directors Authority Seal of the corporation	$1,200
Annual renewal of Certificate of Incorporation	$1,000
For a certified copy of a Certificate of Incorporation	$100
Inspection of the Register	$50
For a certified copy of an entry in the Register	$100
Change of particulars of corporation including shareholding structure	$750
Change of name of Corporation: Change of name Issuance of new Certificate of Incorporation	$1,000
Annual Return	$500
Late lodgement of any documents	$500

[The next page is 55,801]

SCHEDULE 2

[Regulation 6]

FORM 1

APPLICATION FORM FOR INCORPORATION OF CORPORATION

TO: REGISTRAR OF CORPORATIONS
DEPARTMENT OF JUSTICE AND BORDER CONTROL
GROUND FLOOR
GOVERNMENT BUILDING COMPLEX
YAREN DISTRICT
REPUBLIC OF NAOERO

1. Details of proposed business

Proposed name of corporation	
State the general nature of the proposed business	
Registered and principal place of business	
Any other place of business	
Date of commencement of the business	
Name of Directors of the Corporation	
Name of Secretary of the Corporation	
Capital share of the Corporation	
Memorandum of Incorporation (Need to be submitted)	
Articles of Association (Need to be submitted)	
Holding or Trading Corporation	
Tax Identification Number issued by Naoero Revenue Office	
Name, address and person lodging application for incorporation	

2. Details of other business solely or jointly owned by the Corporation

Name of any other business owned by the Corporation	
Address of the other business	
Date of commencement of the other business	
Telephone number	

Tax Identification Number for such other business	

(In case of more than one business, complete the table above for each business)

3. Structure of the Proposed Corporation and shareholding

Please proceed to incorporate a trading/holding corporation under any one of the names indicated below in order of preference:

1. First Preference
Name
. . . . . .
Second Preference

Name
. . . . . .
Third Preference

Name
. . . . . .

2. Share Capital – Proposed

	No. of Shares	Class of Shares	Face Value of each Share	Total Face Value of Shares
Authorised Capital	. . . . .	. . . . .	. . . . .	. . . . .
Issued and Subscribed Capital	. . . . .	. . . . .	. . . . .	. . . . .
Paid Up Capital	. . . . .	. . . . .	. . . . .	. . . . .

3. Particulars of Transferee(s) in case where initial subscribers are requested to transfer their holdings to third parties or hold them for the benefit of such third person:

Transferee
Name . . . . . .
. . . . . .
. . . . . .
Address
. . . . . .
. . . . . .
. . . . . .

4. Particulars of First Directors

(i) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

(ii) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

(iii) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

5. Particulars of Secretary

(i) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

(ii) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

(iii) Name

. . . . . .

Occupation

. . . . . .

Address

. . . . . .

. . . . . .

6. Quorum at Board Meetings
   Please indicate the minimum number of Directors which would form quorum at the meeting.
   . . . . . .
   . . . . . .
7. Additional Information
   (a) Details of Bank Accounts intended to be opened
      (i) Name of the Bank
      . . . . . .
      (ii) Nature of Account
      . . . . . .
      . . . . . .
      (iii) Names of the Persons authorised to operate on the Accounts
      . . . . . .
      . . . . . .

   (b) Corporate Seal
      Corporate seal to be presented for inspection:

      . . . . . .

We hereby confirm that the contents of this application and the information given herein are true to the best of our knowledge.

We hereby request the Registrar of Corporations to act upon the instructions of the authorised person(s)/organisation(s) referred to below:

Authorised Person/Organisation	Specimen Signature
Name	
. . . . .	. . . . .
. . . . .	
Address	
. . . . .	
. . . . .	

Principal	Specimen Signature
Name	
. . . . .	. . . . .
. . . . .	
Address	
. . . . .	
. . . . .	

4. Details of the individuals who are the beneficial owners of the Proposed Corporation

Full name of the individuals	
Surname	
Forename	
Gender	
Usual residential address	
Correspondence address (if different from intended registered or principal address of corporation)	
Nationality (if the nationality is not the nationality of origin, specify the nationality of origin)	
Date of birth	
Residential address	
Email address	
Telephone number	
Tax Identification Number in Naoero, and abroad, if applicable.	

5. Details of other business solely or jointly owned by the beneficial owners

Business name of other business owned by the individual	
Date of commencement of the other business	
Date of commencement of the other business	
Telephone number	
Tax Identification Number for such other business	

6. Documents

Attach a copy of the following documents to this form:

(a) The following information relating to past (if any) and present shareholders of the corporation:

  (i) the names and addresses of all the shareholders of the corporation;

  (ii) the names and addresses of all persons who ceased to be shareholders of the corporation;

  (iii) the number of shares held by each shareholder;

  (iv) the shares transferred by existing shareholders or past shareholders (including the dates of incorporation of the transfers).

(b) Tax Identification Number (issued by Naoero Revenue Office for Tax Authorities abroad) for each Beneficial Owner, Shareholder, Director and Secretary; and

(c) drivers licence, bio date page of passport or birth certificate of each Beneficial Owner, Shareholder, Director and Secretary;

(d) phone and email details and addresses for each Shareholder, Director and Secretary;

(e) certificate of registration of business name where the corporation is not trading in its incorporated name;

(f) business licence if already trading;

(g) in the case of a partnership, the certificate of registration of Partnership in the *Partnership Act 2018* and the Partnership Deed;

(h) in the case of a Trust, the certificate of registration of Trust, and the Trust Instrument, if any.

8. Declaration

I/We the applicant .....(*state name*) of .....(*address*), ...(*occupation*), do solemnly and sincerely declare that (*set out matter declared using numbered paragraphs if it is lengthy*):

And I/We make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Name (Director): .....Signature:.....

Date:.....

Name (Director/Secretary):.....Signature:.....

Date:.....

Declared at.....this.....day of .....20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and is liable to imprisonment for 5 years.

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

RENEWAL FORM
FOR INCORPORATION OF CORPORATION

[Regulation 7]

TO: REGISTRAR OF CORPORATIONS
DEPARTMENT OF JUSTICE AND BORDER CONTROL
GROUND FLOOR
GOVERNMENT BUILDING COMPLEX
YAREN DISTRICT
REPUBLIC OF NAOERO

1. Details of the Corporation

Corporate name contained in the incorporation certificate	
Name of corporation under a Business Name registered under the *Business Names Registration Act 2018* (if any)	
Date and place of registration of the corporation	
Registered or principal place of business of the corporation	
Statement or nature of interest or shares the business	
Full address of the registered or principal place of business	
Full address of any other place of business	
Date of commencement of the business	
Tax Identification Number issued by Naoero Revenue Office for the business	
If any other business owned by the individual (*specify the business name or names*)	
Email address	
Telephone number	

2. Variation of particulars

If there has been any variation of particulars please state the change at least 1 month prior to the expiry date of the licence

Former particulars	**New particulars**

The following authorised officers may inspect business licences and such assistance shall be afforded to them.

3. Inspection of documents

The authorised officers may inspect business licences and such assistance shall be afforded to them.

It is an offence under Section 25A to obstruct an authorised officer.

4. Documents

Attach a copy of the following documents to this form:

(a) annual return filed for the corporation; and

(b) any document that is relevant to the variation of particulars if applicable.

5. Declaration

I/We ..... (*state name*) of .....(*address*), ...(*occupation*), do solemnly and sincerely declare that (*set out matter declared using numbered paragraphs if it is lengthy*):

And I/We make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Name (Director): .....Signature:.....

Date:.....

Name (Director/Secretary):.....Signature:.....

Date:.....

Declared at.....this.....day of .....20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and is liable to imprisonment for 5 years.

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

CONSENT OF DIRECTORS

[Regulation 8]

Name of corporation	
Corporation Number	
Director's full name	

[Please ensure that your full name is provided]

I consent to be a Director of the above proposed corporation and certify that I am not disqualified from being appointed or holding office as a director of a corporation.

Signature	
Name of person signing	
Director's residential address	
Director's email address	
Director's telephone number	

Disqualification details

Please ensure that you are not disqualified from being a director of a corporation before signing this consent form.

A person cannot be a director of a corporation if he or she is any of the following:

(a) under 18 years of age;

(b) an undischarged bankrupt or an individual who has an arrangement with any of his or her creditors;

(c) an individual who has been sentenced to imprisonment for a term of 12 months or more by a court of the Republic or any other country and has not received a pardon in or outside of the Republic;

(d) an individual who lacks capacity in respect of his or her duties as a member within the meaning of the *Mental Health Act 1963*; or

(e) a holder of an elected office.

Declaration

I .....(*state name*) of .....(*address*), ...(*occupation*), do solemnly and sincerely declare that (*set out matter declared using numbered paragraphs if it is lengthy*):

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Name (Director): .....Signature:.....

Date:.....

Declared at.....this.....day of .....20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and is liable to imprisonment for 5 years.

[The next page is 56,001]

SCHEDULE 3

[Regulation 9]

FORM 1

ANNUAL RETURN OF A CORPORATION

Annual Return of .....made up to the.....of 20

1. The Annual General Meeting of the Corporation was held on the .....of .....20.....
2. The address of the registered office of the corporation is .....District, Republic of Naoero.
3. The address at which the Register of Members is kept, if other than the Registered Office is, ...

CERTIFICATE

4. We after having made due inquiries certify:
   (a) having made an inspection of the share register that ..... transfers have been registered since the date of the last Annual Return/Incorporation of the Corporation;
   (b) that the corporation has not, since the date of the last annual return, issued any invitation to the public to subscribe for any shares in or debentures of the corporation or to deposit monies for fixed periods or payable at call;
   (c) that there are ..... members of the corporation;
   (d) that to the best of our knowledge and belief the corporation is a **holding** corporation or is a **trading** corporation and has been a holding corporation or trading corporation for the purposes of the *Corporations Act 1972* since the date of the previous return/incorporation of the corporation; (*delete where applicable*)
   (e) that the Auditor(s) of the corporation appointed on by a General Meeting are:
   .....
   .....
   .....

DATED THE DAY OF 20.....

SUMMARY OF SHARE CAPITAL AND SHARES

5. Nominal share capital shares of each shareholder is ..... of total issued shares.

6. Total number of shares taken up to the.....day of.....: .....

7. Number of shares issued subject to payment wholly in cash: .....

8. Number of shares issued as fully paid up otherwise than in cash: .....

9. Number of shares issued as partly paid up to the extent of $..... per share otherwise than in cash: .....

10. Number of shares if any, of each class issued at discount: .....

11. Total amount of discount on the issue of shares which has not been written off at the date of this return: .....

12. There has been called up on each of ..... shares.

13. Total amount of calls received, including payments on application and allotment: .....

14. Total amount if any agreed to be considered as paid on 1 ordinary share which have been issued as fully paid: .....

15. Total amount if any agreed to be considered as paid on shares which have been issued as partly paid.

16. Total amount of calls unpaid: .....

17. Total of any commission paid in respect of any shares or debentures since the date of the last return: .....

18. Total amount of any discount allowed in respect of any debentures since the date of the last return: .....

19. Total number of shares, if any forfeited: .....

20. Total amount paid, if any on shares forfeited: .....

21. Total number of shares reacquired by the co. and cancelled: .....

22. Total amount paid, if any, on shares reacquired by the corporation and cancelled: .....

23. Total amount of indebtedness of the corporation in respect of all charge which are required to be registered with the Registrar of Corporations: .....

Particulars of Charges Registered in Naoero

Registered Number:	Date of Registration:	Amount:
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .

24. Particulars of Directors, Managers, Secretaries and Auditors of the Corporation at the date of the Annual Return:

Directors

Name	Address
. . . . .	. . . . .
. . . . .	. . . . .
. . . . .	. . . . .

Managers

Name	Address
. . . . .	. . . . .
. . . . .	. . . . .
. . . . .	. . . . .
. . . . .	. . . . .

Secretaries Name	Address
.....	.....
.....	.....
.....	.....
.....	.....

Auditors Name	Address
.....	.....
.....	.....
.....	.....
.....	.....

25.

(This paragraph is to be completed in the case of a Trading Corporation)

List of persons (being actual beneficial owners and not nominees or agents) holding shares in ..... on the ..... day of ....., 20..... and the account of the shares so held.

Folio Names Number:	Addresses:	Shares Held:
.....	.....	.....
.....	.....	.....
.....	.....	.....

Additional Documents

Provide particulars of the following information and attach a copy of the following documents to this form:

(1) If the share register is divided into two or more registers kept in different places, the place in which each register is kept;

(2) If any records are not kept at the corporation's registered or principal office under Section 134 of the Act, details of those records and of the place or places where they are kept;

(3) The following information relating to past and present shareholders of the corporation:

- (a) the names and addresses of all the shareholders of the corporation;
- (b) the names and addresses of all persons who ceased to be shareholders of the corporation:
  - (i) since the date of the last annual return; or
  - (ii) in the case of the first annual return of a corporation incorporated under this Act, since the date of incorporation; or
- (c) the number of shares held by each shareholder;

(d) the shares transferred by existing shareholders or past shareholders (including the dates of incorporation of the transfers):

(i) since the last annual return; or

(ii) in the case of the first annual return of a corporation incorporated under this Act, since the date of incorporation; and

(e) the Tax Identification Number of the corporation.

Declaration – Bearer Securities

I declare that there are no bearer securities (shares or debentures) on issue for this corporation.

Full name.....

Signature.....

Declaration

I/We .....(*state name*) of .....(*address*), ...(*occupation*), do solemnly and sincerely declare that (*set out matter declared using numbered paragraphs if it is lengthy*):

And I/We make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Name (Director): .....Signature:.....

Date:.....

Name (Director/Secretary):.....Signature:.....

Date:.....

Declared at.....this.....day of .....20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and is liable to imprisonment for 5 years.

LODGED BY:

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 56,501]

Motion of Exemption of the Commonwealth Bank of Australia under the Corporations Act 1972

TABLE OF AMENDMENTS

The Motion of Exemption of the Commonwealth Bank of Australia under the Corporations Act 1972 SL 19 was notified and commenced on 29 April 2025 (GN No 475/2025; Gaz 175/2025).

Amending Legislation	Notified	Date of Commencement

[The next page is 56,601]

Motion of Exemption of the Commonwealth Bank of Australia under the Corporations Act 1972

PURSUANT to the powers vested in me under Section 246 of the *Corporations Act 1972*, by this Motion, I exempt the Commonwealth Bank of Australia, from the requirements of the *Corporations Act 1972*.

Hon. Lionel Rouwen Aingimea, M.P.

Minister

[The next page is 60,001]