

CHAPTER 110

THE COMPANIES ACT.

Commencement. 1 January, 1961.

An Act to amend and consolidate the law relating to the incorporation, regulation and winding **up** of companies and other associations and to make provision for other related and connected matters.

PART 1-PRELIMINARY.

1. Interpretation.

(I) In this Act, unless the context otherwise requires-

- (a) "accounts" includes a company's group accounts, whether prepared in the form of accounts or not;
- (b) "annual return" means the return required to be made, in the case of a company having a share capital, under section 125, and in the case of a company not having a share capital, under section 126;
- (c) "approved stock exchange" means a stock exchange approved under section 24 of the Capital Markets Authority Act and includes an interim stock trading facility approved under section 90 of that Act;
- (d) "articles" means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained in Table A in the First Schedule to any of the repealed Ordinances or in Table A in the First Schedule to this Act;
- (e) "book and paper" and "hook or paper" include accounts, deeds, writings and documents;
- (f) "company" means a company formed and registered under this Act or an existing company;
- (g) "company limited by guarantee" and "company limited by shares" have the meanings assigned to them respectively by section 3(2);
- (h) "contributory" has the meaning assigned to it by section 214;

- (i) "court", used in relation to a company, means the court having jurisdiction to wind up the company;
- (j) "creditors' voluntary winding up" has the meaning assigned to it by section 281(4);
- (k) "debenture" includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;
- (l) "director" includes any person occupying the position of director by whatever name called;
- (m) "document" includes summons, notice, order and other legal process, and registers;
- (n) "existing company" means a company formed and registered under any of the repealed Ordinances;
- (o) "financial year" means, in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not;
- (p) "general rules" means rules made by the Minister under section 348;
- (q) "group accounts" has the meaning assigned to it by section 150(1);
- (r) "holding company" means a holding company as defined by section 154;
- (s) "insurance company" means a company which carries on the business of insurance either solely or in conjunction with any other business;
- (t) "issued generally" means, in relation to a prospectus, issued to persons who are not existing members or debenture holders of the company;
- (u) "limited company" means a company limited by shares or a company limited by guarantee;
- (v) "members' voluntary winding up" has the meaning assigned to it by section 281(4);
- (w) "memorandum" means the memorandum of association of a company, as originally framed or as altered from time to time;
- (x) "minimum subscription" has the meaning assigned to it by section 49(3);
- (y) "officer", in relation to a body corporate, includes a director, manager or secretary;
- (z) "personal representative" means—

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

(3) References in this Act to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Uganda.

(4) Any provision of this Act overriding or interpreting a company's articles shall, except as provided by this Act, apply in relation to articles in force at the commencement of this Act, as well as to articles coming into force thereafter, and shall apply also in relation to a company's memorandum as it applies in relation to its articles.

2. Register of companies.

There shall be kept by the registrar a record called "the Register of Companies" in which shall be entered all the matters prescribed by this Act.

PART II—INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL TO INCORPORATION.

Memorandum of association.

3. Mode of forming an incorporated company.

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

(2) Such a company may be either-

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

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- (i) in the case of a deceased person to whom the Succession Act applies either wholly or in part, his or her executor or administrator;
- (ii) in the case of any other deceased person, any person who, under law or custom, is responsible for administering the estate of such deceased person;
- (aa) "printed" means reproduced by original letterpress or by such other means as may be prescribed;
- (bb) "private company" has the meaning assigned to it by section 29(1);
- (cc) "prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;
- (dd) "registrar" means the registrar of companies or any assistant registrar or other officer performing under this Act the duty of registration of companies;
- (cc) "repealed Companies Ordinance" means the Companies Ordinance, Chapter 212 of the Laws of Uganda (Revised Edition), 1951;
- (ff) "repealed Ordinances" means the Indian Companies Act, 1882, (as applied to Uganda), the Companies Ordinance, 1923 (No. 6 of 1923) and the repealed Companies Ordinance;
- (gg) "resolution for reducing share capital" has the meaning assigned to it by section 68(2);
- (hh) "resolution for voluntary winding up" has the meaning assigned to it by section 276(2);
- (ii) "share" means share in the share capital of a company, and includes stock *except* where a distinction between stock and shares is expressed or implied;
- (jj) "share warrant" has the meaning assigned to it by section 85(2);
- (kk) "statutory meeting" means the meeting required to be held by section 130(1);
- (ll) "statutory report" has the meaning assigned to it by section 130(2);
- (mm) "subsidiary" means a subsidiary as defined by section 154;
- (nn) "Table A" means Table A in the First Schedule to this Act;
- (oo) "time of the opening of the subscription lists" has the meaning assigned to it by section 52(2);
- (pp) "unlimited company" has the meaning assigned to it by section 3(2).

Signature of the memorandum.

(1) The memorandum shall be dated and shall be signed by each subscriber in the presence of at least one attesting witness who shall state his or her occupation and postal address.

(2) Opposite the signature of every subscriber there shall be written in legible Roman characters his or her full name, his or her occupation and postal address.

6. Restriction on alteration of the memorandum.

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

7. Mode in which and extent to which objects of a company may be altered.

(1) A company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it-

- (a) to carry on its business more economically or more efficiently;
- (b) to attain its main purpose by new or improved means;
- (c) to enlarge or change the local area of its operations;
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company;
- (e) to restrict or abandon any of the objects specified in the memorandum;
- (f) to sell or dispose of the whole or any part of the undertaking of the company; or
- (g) to amalgamate with any other company or body of persons,

except that if an application is made to the court in accordance with this section for the alteration to be cancelled, it shall not have effect except insofar as it is confirmed by the court.

(2) An application under this section may be made-

- (a) by the holders of not less in the aggregate than 15 percent in nominal value of the company's issued share capital or any class

- (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed "a company limited by guarantee"); or
- (c) a company not having any limit on the liability of its members (in this Act termed "an unlimited company").

4. Requirements with respect to the memorandum.

(1) The memorandum of every company shall be printed in the English language and shall state-

- (a) the name of the company, with "limited" as the last word of the name in the case of a company limited by shares or by guarantee;
- (b) that the registered office of the company is to be situate in Uganda;
- (c) the objects of the company.

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

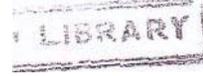
(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he or she is a member, or within one year after he or she ceases to be a member, for payment of the debts and liabilities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

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

- (a) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division of the share capital into shares of a fixed amount;
- (b) no subscriber of the memorandum may take less than one share;
- (c) each subscriber must write opposite to his or her name the number of shares he or she takes.

regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

11. Printing and signature of articles.



Articles shall be -

- (a) in the English language;
- (b) printed;
- (c) divided into paragraphs numbered consecutively; and
- (d) signed by each subscriber to the memorandum of association in the presence of at least one witness, who shall attest the signature and add his or her occupation and postal address.

12. Alteration of articles by special resolution.

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

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

Form of memorandum and articles of association.

13. Statutory forms of memorandum and articles.

The form of--

- (a) the memorandum of association of a company limited by shares;
- (h) the memorandum and articles of association of a company limited by guarantee and not having a share capital;
- (c) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (d) the memorandum and articles of association of an unlimited company having a share capital,

shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule to this Act, or as near to those forms as circumstances admit.

*Articles of association.***8. Registration of articles and regulations of companies.**

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

9. Content required in the case of an unlimited company or a company limited by guarantee.

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

(2) In the case of a company limited by guarantee, the articles must state the number of members with which the company proposes to be registered.

(3) Where an unlimited company or a company limited by guarantee has increased the number of its members beyond the registered number, it shall, within fourteen days after the increase was resolved on or took place, give to the registrar notice of the increase, and the registrar shall record the increase.

(4) If default is made in complying with subsection (3), the company and every officer of the company who is in default are liable to a default fine.

10. Adoption and application of Table A.

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

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

17. Registration of unlimited company as limited; registration of a limited company.

(1) Subject to this section, a company registered as unlimited may register under this Act as limited, or a company already registered as a limited company may reregister under this Act, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of the company before the registration.

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

Provisions with respect to names of companies.

18. Reservation of name and prohibition of undesirable name.

(1) The registrar may, on written application, reserve a name pending registration of a company or a change of name by an existing company. Any such reservation shall remain in force for a period of thirty days or such longer period, not exceeding^e sixty days, as the registrar may, for special reasons, allow, and during that period no other company shall be entitled to be registered with that name.

(2) No name shall be reserved and no company shall be registered by a name which, in the opinion of the registrar, is undesirable.

19. Change of name.

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

(2) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name is registered by a name

*Registration.***14. Registration of memorandum and articles.**

The memorandum and the articles, if any, shall be delivered to the registrar, and he or she shall retain and register them.

15. Effect of registration.

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

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

16. Evidence of compliance with registration requirements.

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

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