

Bengal Bonded Warehouse Association Act, 1838

UNION OF INDIA

India

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Act 5 of 1838

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Bengal Bonded Warehouse Association Act, 1838 Act No. 5 of 1838

1451.

[14th March, 1838]

1. Incorporation.-

It is hereby enacted, that the persons whose names appear in the Schedule No. 1, hereinto annexed, shall, from the 14th day of March, 1838, form a corporate body for the Warehousing of Goods, either in bond or otherwise, by the name of the Bengal Bonded Warehouse Association.

2. Power to sue and be sued, and to acquire, hold and transfer property.-

And it is hereby enacted, that the said Association shall sue and be sued by its corporate name, and shall use such common seal as the Directors of the said Association shall from time to time appoint, and may acquire, may hold absolutely, may hold by way of pledge, and may transfer, any description of property whatever.

3. Capital stock and shares.-

And it is hereby enacted, that the sum of 10,00,000 Rupees subscribed for the purpose of the said Association by the persons hereby incorporated, shall be the Capital Stock of the said Association, and shall be divided into 2,000 shares of 500 Rupees each, and that every one of the persons hereby incorporated shall have one share of such Capital Stock for every 500 Rupees which such person shall have subscribed.

4. Registering of names of proprietors.-

And it is hereby enacted, that the Directors of the said Association shall cause the names, additions, and places of residence of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor, to be registered in a book, and the said shares shall be in such book be numbered, beginning from No. 1, and such book shall be kept at the office of the said Association, and shall there be open to the inspection of all persons during the usual hours of business.

5. Share-certificates.-

And it is hereby enacted, that a certificate signed by three Directors of the said Association shall be delivered to every proprietor of the said Capital Stock, and that it shall be at the option of every proprietor of several shares to receive one certificate for all the shares of such proprietor, or one certificate for each of those shares or several certificates, each of which may be for any number of those shares.

6. Transfer of shares.-

And it is hereby enacted, that any share or shares of the said Capital Stock may be transferred by indorsement made on the certificate for such share or shares by the proprietor of such share or shares, or by the Attorney of such proprietor duly authorised thereunto; provided always, that such indorsement shall specify the name of the party to whom the transfer is made; and provided also that no such indorsement shall be effectual to transfer any such share or shares until such indorsement shall have been registered in a Register to be kept for that purpose at the office of the said association, and until a note of such registration, and of the date thereof, shall have been made on the back of the indorsed certificate under the hand of an officer appointed for that purpose by the Directors of the said Association.

7. Proprietors of shares to be members of Association.-

And it is hereby enacted, that every proprietor of a share of the said Capital Stock, who shall cease to be a proprietor of such Stock shall cease to be a member of the corporation created by this Act; and that every person who shall become a proprietor of the said Capital Stock, shall become a member of the corporation created by this Act; and shall, in respect of his share or shares of the said Capital Stock, be under the same liabilities under which an original proprietor of the said Capital Stock would be.

8. First Directors of Association.-

And it is hereby enacted, that the business of the said Association shall be managed by six Directors, and that Francis Macnaghten, Joseph Walker, Jasper, Ouseley, Richard Howe Cockerell, Alexander Colvin, Joseph Willis, and James Church, Esquires, shall be the first Directors of the said Association.

9. Removal and election of Directors.-

And it is hereby enacted, that every Director of the said Association may be removed by a general meeting of the proprietors, and that every future Director of the said Association shall be elected by such a general meeting.

10. Directors to go out by rotation.-

And it is hereby enacted, that a rotation among the Directors of the said Association shall be settled by lot, so that two of the said Directors may go out of office on the Monday following the 15th day of May, in every year, and that on the Monday following the 15th day of May, in every year, a general meeting of proprietors shall be held, at which two Directors shall be chosen, and that no Director going out by such rotation shall be capable of being reelected, till the Monday after the 15th of May in the year next following.

11. Election of successor, when Director ceases to be so, otherwise than by rotation.-

And it is hereby enacted, that if any Director of the said Association shall cease to be a Director, otherwise than by the operation of the rule of rotation aforesaid, the Directors of the said Association shall, with all convenient speed after such public notice as is hereinafter directed, call an extraordinary general meeting of the proprietors for the purpose of choosing a successor and such successor shall come into the same place in the rotation aforesaid in which the Director whom he has succeeded was.

12. Qualifications of Directors.-

[Rep. by Act V of 1854, Section 1.]

13. Directors to be residents of Bengal Presidency.-

And it is hereby enacted, that no person shall be capable of being a Director of the said Association, unless he be resident within the Territories subject to the Presidency of Fort William in Bengal.

14. Ordinary meetings.-

[Rep. by Act V of 1854, Section 1.]

15. Adjournment of ordinary meetings.-

And it is hereby enacted, that any ordinary general meeting of the said Association may adjourn itself to a future day, and may, on the day to which it shall have so adjourned itself, resume its proceedings, and transact any business which it would have been competent to transact on the day

when it originally assembled.

16. Extraordinary general meetings.-

And it is hereby enacted, that extraordinary general meetings of the said Association shall be held according to such rules as may be made for that purpose, in the By-laws of the said Association; provided always, that no such extraordinary general meeting shall be held without a previous notice of not less than fourteen days, which notice shall be published in not less than two newspapers printed at Calcutta.

17. Voting at general meetings. Qualifications for voting.-

And it is hereby enacted, that at General Meetings of the Proprietors, every election and question shall be decided by a majority of votes; and that no proprietor shall be allowed to vote unless he be possessed of two or more shares of the Capital Stock of the said Association, which shares shall have been registered in his name not less than three calendar months before.

18. Number of votes to which proprietors are entitled.-

And it is hereby enacted, that at such general meetings, no proprietor shall have more than eight votes, and that the proprietors shall vote according to the following scale :

2 Shares shall entitle to.	1 Vote.
4 Shares shall entitle to.	2 Votes.
6 Shares shall entitle to.	3 Votes.
10 Shares shall entitle to.	4 Votes.
20 Shares shall entitle to.	6 Votes.
35 Shares shall entitle to.	7 Votes.
50 Shares shall entitle to.	8 Votes.

19. Votes of joint proprietors of shares.-

And it is hereby enacted, that if more persons than one, being partners in trade, shall be joint proprietors of two or more shares of the said Capital Stock and shall agree to give a joint vote or joint votes, such joint vote or joint votes, shall be received in all respects as the vote or votes of a single proprietor would be received.

20. Voting by proxy.-

And it is hereby enacted, that every proprietor entitled to vote at any general meeting may give a proxy in writing, general or special, limited or unlimited and signed by himself or by his attorney duly authorized thereunto, to any other proprietor: and that the proprietor to whom the proxy is given, may vote on behalf of the proprietor who had given the proxy, according to the terms of such

proxy.

21. Authority of Directors.-

And it is hereby enacted, that the Directors of the said Association shall have authority to expend the money of the said Association for the purpose of purchasing and erecting warehouses, and of warehousing and bonding goods therein, and to make and fulfil contracts for the said purpose, and to appoint and remove such servants as may be necessary for the said purpose and generally to manage all the concerns of the said Association, subject to such rules as may be laid down in the By-laws of the said Association. and to keep the Seal of the said Association, and to use the said Seal in the affairs of the said Association, provided always, that the said seal shall never be affixed to any instrument except in the presence and by the consent of three Directors, who shall sign their names on every such instrument in token of their presence and consent.

22. Calls for share money.-

And it is hereby enacted. that the Directors of the said Association shall have authority to call on the proprietors to pay such instalment or instalments as shall, together with the instalments already paid, amount to a sum not exceeding 50 per cent. on each share; and that no further call shall be made, except in consequence of a vote of a general meeting of the proprietors, authorising such further call; provided always that no proprietor shall be called upon to pay more in proportion to his share in the Capital Stock than any other proprietor.

23. Interest to run on each call.-

And it is hereby enacted, that if any proprietor shall not pay any instalment which he is lawfully called upon to pay, in the manner described in the last section, on the day appointed for such payment, the said Association shall have a claim against such proprietor for interest on the deficient sum, after the rate of 10 per cent. per annum; and that it shall be lawful for the Directors of the said Association to apply, in satisfaction of such instalment and of such interest, any dividend due to such proprietor, placing every dividend so applied to the credit of such proprietor with the said Association.

24. Power to refuse to register transfer by defaulting proprietor. Power to sell shares to satisfy calls, and issue fresh certificates.-

And it is hereby enacted, that it shall be lawful for the Directors of the said Association to refuse to register the transfer of any share belonging to any proprietor who shall not have paid such instalment and interest as aforesaid; and that in case such instalment and interest shall not be paid within two months after notice to pay the same has been given by the said Directors to such proprietor, or to his attorney or attorneys duly authorised, it shall be lawful for the said Directors to sell by public sale the share or shares of such proprietor, to such an extent as may be sufficient to satisfy such instalment and interest, and to grant, upon such sale, a new certificate or new

certificates to the purchaser of such share or shares whereupon the former certificate or certificates for such share or shares shall become void, and if there be any surplus after such instalment and interest have been satisfied, such surplus shall be paid on demand to the proprietor of such share or shares, and shall, till demand, be credited in the books of the said Association to such proprietor, but no interest shall run thereon.

25. Extension of Act No. XXV of 1836 to warehouses of Association.-

And it is hereby enacted, that all the provisions of Act No. XXV of 1836, of the Governor General of India in Council, relating to private licensed Warehouses, shall be applicable to all Warehouses wherein the said Association shall receive bonded Goods.

26. Power to give general security for payment of import and export duties.-

And it is hereby enacted, that it shall be lawful for the said Association to give general security, by bond, under the seal of the said Association, for payment of the full duties of importation on Goods, lodged in any Warehouse of the said Association, or for the due exportation of such Goods; and if the said Association shall give such bond, no security shall be required from any other party to the same effect.

27. Rates for warehousing.-

And it is hereby enacted, that the Directors of the said Association shall, from time to time, fix the rates at which the said Association Will Warehouse Goods and receive Goods at its Wharfs, and that a table of such rates shall be placed at every Warehouse and Wharf of the said Association.

28. Certificates of deposit, transferable by endorsement.-

And it is hereby enacted, that as often as any Goods are lodged in any Warehouse of the said Association, the Secretary of the said Association shall deliver a warrant signed by him as such Secretary, to the person lodging such Goods, which warrant shall be, as nearly as possible, in the form set forth in Schedule 11 annexed to this Act, and such warrant shall be transferable by indorsement, and shall entitle any person to whom it may have been so transferred by indorsement, to receive the Goods specified in such warrant, on the same terms on which the person who originally lodged those Goods would have been entitled to receive the same.

29. Suits against Association.-

And it is hereby enacted, that all suits brought against the said Association shall be brought in the Supreme Court of Judicature at Fort William in Bengal and not elsewhere.

30. Joint Stock of Association.-

And it is hereby enacted, that all the Joint Stock of the said Association of what kind or description soever, and all the Land, Warehouses, Messuages, Tenements, Hereditaments, Premises and Property acquired therewith, of which the said Association shall become in any manner possessed, entitled to, or interested in shall be held and enjoyed by the proprietors thereof, and their successors respectively, as Personal Estate, or as in the nature of Chattel Interests, and not as, or in the nature of, Real Estate.

31. Individual members not to be liable.-

And it is hereby enacted. that in order to define the liability of Proprietors of shares, and to save harmless themselves and their respective Heirs, Executors, Administrators, Representatives and Assigns, no Proprietor his Heirs. Executors, Administrators, Representatives or Assigns, shall be personally liable to any person or persons whatsoever by reason of being a Proprietor in any event, or for or on account of any acts, deeds, contracts or liabilities of the said Association, or of the Directors or Secretary thereof respectively, or under or by virtue of any judgment or decree in any action or suit, but that the party or parties having any legal or equitable demand or claim for or on the account last aforesaid, or having obtained such judgment or decree as last aforesaid, shall and may only recover the amount of such demand, claim, judgment or decree from and out of or to the whole extent of the paid up Capital, accumulated Funds, Lands, Messuages, Tenements, Hereditaments and Premises whatsoever and wheresoever, which may at the time belong to the said Association, or to which they may at the time be entitled.

32. Bye-laws.-

[Rep. by Act V of 154, Section 1.]

33. Increase of Capital Stock.-

And it is hereby enacted, that it shall be lawful for the said Association to increase its Capital Stock; provided always that no such increase shall take place unless it be authorized by a vote of two extraordinary general meetings of Proprietors specially convened for that purpose, of which meetings the second shall be held not less than three calendar months after the first.

34. Option to original proprietors to sub'cribe in first instance.-

And it is hereby enacted, that in the event of such increase, the Proprietors of the original Stock shall not be bound to subscribe, but shall in the first instance have the option of subscribing for the i.- creased Capital Stock in proportion to the share which each has of the original Capital Stock: and so much of the additional Capital Stock as shall not be subscribed for by the said Proprietors of the original stock, within one year after the passing of the final resolution for the increase, shall be open to the public, and be sold, for the benefit of the said Association, by public sale.

35. Provisions of Act to apply to additional Stock.-

And it is hereby enacted, that all the rules laid down in this Act respecting the original Capital Stock of the said Association, shall be applicable to any additional Stock which may be subscribed in the manner hereinbefore described.

36. East India Company to have right of preemption.-

And it is hereby enacted. that if the said Association shall be desirous to dispose of any premises purchased by the said Association from the East India Company, the said East India Company shall have the right of preemption, and the price shall be fixed by two appraisers, the one named on the part of the said East India Company, and the other by the Directors of the said Association; and if the said appraisers shall not agree on a price, the price shall be fixed by an umpire named by the said appraisers.

37. Dissolution of Association by order of the Governor General in Council.-

[Rep. by Act V of 1854, Section 1.]

38. Dissolution of Association by resolution of proprietors.-

And it is hereby enacted, that the said Association may at any time be dissolved by a resolution to that effect of two-thirds in number and value of the proprietors qualified to vote at two successive extraordinary meetings specially called for the purpose of taking into consideration the expediency of such dissolution; provided that not less than three months shall have elapsed between the first and second of such two extraordinary meetings.

39. Division of property on dissolution.-

And it is hereby enacted, that whenever the dissolution of the said Association shall be ordered either by the [Central Government] [Substituted for the words " Governor General of India in Council" by the A.O. 1937.], or by a vote of the said Association, the Directors of the said Association shall cause all the property of the said Association to be converted into money, and shall divide whatever surplus may remain after satisfying the debts of the said Association among the proprietors in proportion to the shares which the proprietors have in the Capital Stock of the said Association; and after such distribution the said Association shall forthwith be dissolved.

NO. I

LIST OF PROPRIETORS OF SHARES

R. H. Cockerell.

W. Speir.

W. Martin.

R. Speis.	T. Spier.	J. S. Brownrigg.
J. Cockerell.	G. G. de H. Larpent.	J. St. Pourcain.
J. M. Dove.	Gungapersaud Gossain.	Rarnchunder Seal.
J. Willis.	W. Earle.	D. Wills.
Madobchunder Sandell.	Dyalchaund Bysack.	Gopeekissen Paul.
Ditto for Mrs. A. G. Glass.	Ditto for E. B. Squire, Junior.	Charles Lyall.
John Lyall.	David Lyall.	W. T. Dawes.
Colville. Gilmore & Co.	Alexander Rogers.	J. H. Crawford.
A. Porteous.	J. W. J. Ouseley, Captain.	G. A. Prinsep.
W. Barrington, Captain.	T. C. Robertson.	Ramdas Dey.
Bonomalce Mullick.	A. Muller.	Charles Trebeck.
T. Bowring.	J. W. Alexander.	T. B. Swinhoe.
Robert Swinhoe.	A. Dobbs.	John Watson.
Taraneechurn Chatterjee.	G. Herklots, Junior.	F.O. Wells.
C. Lancaster.	C. Lancaster. Trustee for Mrs. Comish's Marriage Settlement.	J. Mackey & Co.
James Mackenzie.	P. J. Sarkies.	G. Collier.
R. Bird.	J. Ranken, M.D.	Brijobullub Doss & Gocul Doss.
A. S. Stopford.	A. Beattie.	Wilson Frith & Co.
G. C. Arbuthnot.	Jomejoy Bhowse.	T. Willis.
J. Master.	G. C. S. Master, Lieut.	Trustees of Mrs. Limond's Marriage Settlement.
J. Innes.	W. Adam.	Joseph Worthington.
James Cullen.	J. C. Palmer.	A. Colvin.
W. Ainslie.	H. Cowie.	T. S. Anquetil, Lt.-Col.
W. H. Martin.	A. Jackson.	A. S. Gladstone.
J. Craigie Licut-Col.	J. Williams.	J. B. Higginson.
Megnarain Roy.	Ramarain Mookerjee.	Doorgachurn Mookerjee.
Gowrichurn Mookerjee.	I. B. Biss.	J. S. Biss.
Ragoonath Coonlo.	W. F. Gibbon.	J. Cock.
H. F. King.	James Hill.	W. Rushton.
A. J. Sturmer.	Boloram Day.	Obhoychurn Mookerjee.
Bolychaund Bysack.	Mrs. Sarah Moss.	W. Barrett.
Hurrimohun Mookerjee.	Mohunchunder Ghose.	Horrimohun Banorjee.

Kistnomohun Seal.	Hurrochunder Bose.	George Dougal.
John Richards.	Bruce. Shand & Co.	G. W. A. Lloyd. Lt.-Col.
W. Freeth, Captain.	James Colquhoun.	James Church.
Edward Harding.	Henry Moore.	R. Watson.
Mrs. B. Betty.	Henry Mackenzie.	Adam Scott and Co.
Holodhur Chowdry.	Charles S. Gover.	K. B. Mackenzie.
S. R. Crawford.	A. Irvine, Major.	W. A. Peacock.
J. A. Moore, Major.	T. W. Burt.	William Braddon.
Francis Macnaghten.	Carr, Tagore and Co.	W. Carr, Trustee for Mrs.
Dick's Marriage Settlement.	Robert Lyall.	Moheshchunder Mister.
Prawnkisto Doss.	Conai Lai and Mukun Lai.	J. Rostan, Junior.
J. H. Rostan.	T. A. Shaw.	W. A. Shaw.
H. Walters.	J. R. Marcus.	Mrs. Bruce.
Miss. L. W. Bruce.	Joseph Bruce.	Charles C. Bruce.
Debnarain Day.	William Bruce, Trustee for Mrs. Col.Lloyd.	W. Ryland.
M. Hughes, Captain.	Annundchunder Mitter.	J. A. Walker.
T. Hyde Gardiner.	J. C. Owen.	Doorgachum Bose.
Rajkissore Lahory.	Gourmohun Coondoo.	S. Hornby.
Hurrischunder Bose.	Ramsoonder Mullick.	Rajchunder Ghose.
Radanauth Dutt.	H. Barrow.	Godadhur Mitter.
E. D'Cruz.	Goluckchunder Dur.	Luckinarain Day.
T. Blechynden.	W. Stacy.	J. George.
Mrs. C. Shelverton.	C. Shelverton.	Cassinauth Banorjee.
P. S. D'Rozario.	J. D.M. Sinaes, in Trust for Miss	J. F. Speed.
Gorachaund Bose.	J. E. Dunn.	D.W.H. Speed.

No. II.

CALCUTTA BENGAL BONDED WAREHOUSE ASSOCIATIONI do hereby certify that have deposited in the Warehouse of the Association the undermentioned Goods which Goods, the Association engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their Assigns, or to the holder of this warrant to whom it may be transferred by indorsement.