



ANNO VICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1979

No. 55 of 1979

An Act to regulate shareholdings in Santos Limited; and for other purposes.

[Assented to 4th June, 1979]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Santos (Regulation of Shareholdings) Act, 1979".

Interpretation.

2. (1) In this Act—

"the Company" means Santos Limited:

"director" and "officer" in relation to a corporation have the meanings assigned by the Companies Act, 1962-1979:

"share" means a share in the capital of the Company and includes stock, or a unit of stock, in the capital of the Company:

"to hold", in relation to a share, means to have any legal or equitable interest in the share; and "shareholder" has a corresponding meaning.

(2) A reference in this Act to an "associate" of another person shall be construed as a reference to—

(a) if the other person is a corporation—an officer of that corporation;

(b) a corporation that is related to the other person or an officer of such a corporation;

(c) a person in accordance with whose directions, instructions or wishes or under whose authority the other person is accustomed or is under an obligation, whether formal or informal, to act;

(d) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of, or with the authority of, the other person;

- (e) a corporation that is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of, or with the authority of, the other person;
- (f) a corporation in accordance with the directions, instructions or wishes, or with the authority, of which, or of the directors of which, the other person is accustomed or under an obligation, whether formal or informal, to act;
- (g) a person who is under an obligation, whether formal or informal, to act in accordance with the directions instructions or wishes of, or with the authority of, a person in accordance with whose directions, instructions or wishes or under whose authority the other person is under an obligation, whether formal or informal, to act;
- (h) a person who has acted, is acting, or proposes to act, in concert with the other person and in accordance with an agreement, arrangement, or understanding between them;
- (i) a person who has, or proposes to enter into, an agreement, arrangement, understanding or undertaking, whether formal or informal and whether express or implied, with the other person by reason of which he or the other person may exercise, directly or indirectly control the exercise of, or substantially influence the exercise of, the voting rights attached to a share in the Company;

or

- (j) a person who has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to enabling him to become associated with the other person as mentioned in any of the preceding paragraphs.

(3) For the purposes of subsection (2) of this section—

- (a) a corporation is related to another corporation if it is so related for the purposes of the Companies Act, 1962-1979;

and

- (b) a person shall not be regarded as a person in accordance with whose directions, instructions or wishes, or with whose authority, another person is accustomed to act by reason only of the fact that the other person acts on advice given by that person in a professional capacity.

(4) This Act applies in respect of any transaction, agreement, arrangement or understanding—

- (a) whether the transaction, agreement, arrangement or understanding is entered into, or made, in this State or elsewhere;
- (b) whether the shares (if any) to which the transaction, agreement, arrangement or understanding relates are registered in this State or not;

and

- (c) whether the proper law of the transaction, agreement, arrangement or understanding is the law of this State or not.

3. (1) For the purposes of this Act—

- (a) where one or more shareholders are associates of any other shareholder those shareholders and the shareholder of whom they are associates constitute a group of associated shareholders;
- (b) where two or more shareholders are associates of a person who is not a shareholder, those shareholders constitute a group of associated shareholders;

Circumstances in which shareholders are to be regarded as a group of associated shareholders.

and

- (c) where two or more shareholders are, in the opinion of the Minister, likely to act in concert with a view to taking control of the Company, or otherwise against the public interest, those shareholders constitute a group of associated shareholders.

(2) Notwithstanding any other provision of this Act, the Minister, or a director or the secretary of the Company, may at any time, by notice in writing served personally or by post upon any shareholder, require him to furnish information specified in the notice (and to verify the information by statutory declaration) for the purpose of enabling a determination to be made of whether the shareholder is a member of a group of associated shareholders and, if so, the membership of the group.

(3) If a shareholder fails to furnish, within the time allowed in a notice under subsection (2) of this section, the information required by the notice, verified as required in the notice, the shareholder shall not be entitled to exercise any voting rights attached to his shares while he remains in default.

(4) The Minister shall give to the Company—

- (a) notice of any requirement made by the Minister in pursuance of subsection (2) of this section, and of any failure by the shareholder to whom the requirement is directed to comply with that requirement;

and

- (b) notice of any determination of the Minister to the effect that two or more shareholders of the Company constitute a group of associated shareholders.

4. No shareholder, and no group of associated shareholders, of the Company is entitled to hold more than fifteen per centum of the shares of the Company.

Limitation upon size of shareholdings in the Company.

5. (1) Where a shareholder, or a group of associated shareholders, holds more shares than the maximum number permissible under this Act, the Minister may, by notice in writing served personally or by post upon that shareholder, or any member of the group, require him, within a period (being a period of not less than six months) specified in the notice, to sell or dispose of such number of his shares as may be specified in the notice to a person who neither is, nor intends to become, an associate of the shareholder to whom the notice is directed or of any other person specified in the notice.

Minister may require divestment of shares.

(2) The Minister shall give to the Company notice of any requirement made in pursuance of subsection (1) of this section.

(3) If a shareholder fails to comply with a requirement under subsection (1) of this section within the time allowed in the notice the shares of that shareholder shall, by force of this subsection, be forfeited to the Crown.

(4) Where—

(a) a person enters into a transaction by virtue of which he purports to acquire any legal or equitable interest in shares from any shareholder in the company;

and

(b) that person or any group of associated shareholders of which he is, or would become, a member holds, or would hold, more than the maximum number of shares permissible under this Act,

that transaction is illegal and void.

(5) Where shares have been transferred in pursuance of a transaction that is illegal and void by virtue of subsection (4) of this section, the Minister may, by notice in writing served personally or by post on the transferee, forfeit those shares to the Crown.

(6) A director or the secretary of the Company may, before a transfer of shares in the Company is registered, require the transferee to make a statutory declaration to the effect that, if the transfer were registered, neither he nor any group of associated shareholders of which he is, or would become, a member, would hold more shares of the Company than the maximum number permissible under this Act.

(7) If a transferee of shares in the Company fails to comply with a requirement under subsection (6) of this section, the Company may refuse to register the transfer.

Voting
rights at
general
meetings
of the
Company.

6. (1) At a general meeting of the Company—

(a) the voting rights of a shareholder or group of associated shareholders that holds more shares than the maximum number permissible under this Act shall be determined as if that shareholder or group of associated shareholders held no more than the maximum permissible number of shares;

and

(b) the voting rights of a group of associated shareholders shall be divided amongst the individual members of the group in the proportion that the number of shares held by each bears to the total number of shares held by all the members of the group.

(2) Where the Minister determines that two or more shareholders constitute a group of associated shareholders, and gives notice of that determination to the Company, those shareholders shall, unless the determination has been revoked, be conclusively presumed at any subsequent general meeting of the Company to be a group of associated shareholders.

(3) The Minister may by notice in writing given to the Company revoke a determination under subsection (2) of this section.

7. (1) Where in the opinion of the Minister—

(a) a resolution of a general meeting of the Company has been passed as a result of the admission of votes that should not, in view of the provisions of this Act, have been admitted;

or

(b) a resolution of a general meeting of the Company is contrary to the public interest,

the Minister may, by notice published in the *Gazette*, annul that resolution.

(2) A notice under subsection (1) of this section must be published within one month of the date of the resolution to which it relates.

(3) If, throughout a period of three months (being a period that commences at some time after the commencement of this Act), there is no shareholder or group of associated shareholders that holds more than the maximum number of shares permissible under this Act, then, after the expiration of that period, no notice of annulment shall be published in pursuance of subsection (1) (b) of this section.

(4) Where a resolution is annulled by the Minister in pursuance of this section, the resolution shall be void *ab initio*.

8. (1) Any shares forfeited to the Crown under this Act shall be sold by the Registrar of Companies.

(2) For the purposes of any such sale, the Registrar is not bound by any restriction upon the sale of shares contained in the memorandum or articles of association of the Company.

(3) Any moneys realized from the sale of forfeited shares under this section shall, after deduction of the reasonable costs of the forfeiture and sale, be paid to the person from whom the shares were forfeited.

9. No liability attaches to the Company, or any director, officer or auditor of the Company for anything done in good faith and in compliance, or purported compliance, with the provisions of this Act.

Annulment of resolutions of Company.

Sale of forfeited shares.

Immunity of Company and its officers from certain liability.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor