

Amended by No. 5 of 1875



*Governor of (leg) to 633
of '95 (S. 68 of the Act)*

ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

A.D. 1863.

No. 25.

An Act to provide for the periodical publication of the Liabilities and Assets of Banks in the Province of South Australia; the registration of the Charters, Letters Patent, or Deeds of Settlement thereof, and the names of the Proprietors in such Banks.

[Assented to, 12th November, 1863.]

WHEREAS it is expedient that all banking companies, firms, and individual bankers engaged, or hereafter to be engaged in the Province of South Australia, in the discounting and issuing of bills and notes, lending money on securities, and cash credit accounts, and other matters relating to the ordinary business of banking, should, for the information and better security of the public, furnish periodically, in manner hereinafter mentioned, statements of their liabilities and assets, to be published and recorded as hereinafter is directed, and also to register and deposit the charters, letters patent, or deeds of settlement of the said banks—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

1. After the first day of July, one thousand eight hundred and sixty-four, every banking company, firm, or individual banker as aforesaid in the said Province, shall, at the close of business on Monday of every week, prepare and make up a full and correct account and statement in writing, exhibiting the assets, property, and credits respectively belonging to every such banking company, firm, or individual banker as aforesaid, and also the respective debts, engagements, and liabilities of the same.

Statement of weekly average liabilities and assets to be kept.

2. From

Banking Companies Act.—1863.

Half-yearly statement
to be published.

2. From such weekly accounts and statements, so directed to be made up as aforesaid, there shall be prepared on the last Monday of each half-year ending on the thirtieth day of June, and the thirty-first day of December in every year, by every such banking company, firm, or individual banker as aforesaid, respectively, a general abstract in writing of the average amount during such half-year of the respective assets, property, and credits, of every such banking company, firm, or individual banker, and of their respective debts, engagements, and liabilities, in the manner and form, and under the several heads or titles, specified and set forth in the Schedule to this Act; to which respective half-yearly abstracts shall be subjoined a statement exhibiting the amount of the capital stock of every such banking company, firm, or individual banker as aforesaid, paid up at the close of the half-year for which such abstracts respectively shall be so made up; the rate and amount of the last dividend that may have been declared to the shareholders or proprietors, and the amount of the reserved profit at the time of declaring such dividend; and such respective half-yearly abstracts and statements shall be verified upon the oath of the manager, accountant, or clerk of every such banking company, firm, or individual banker as aforesaid, making the same, and shall within one calendar month after the close of every such half-year, or as soon thereafter as may be practicable, be delivered to the Chief Secretary for the time being, to be laid before Parliament, and published in the *Government Gazette*: Provided that the half-yearly returns required to be published by this Act shall be in lieu of any returns required by any Act now in force to be made and laid before Parliament by any banking establishment in the said Province.

Penalty for neglecting
to keep or make
returns.

3. If any such banking company, firm, or individual banker, shall neglect to keep such weekly accounts, or to make out, or to return, or to deliver such half-yearly abstracts to the Chief Secretary as aforesaid, or if any manager, accountant, or clerk verifying any such abstract, shall deliver or return to the said Chief Secretary any false account, or abstract, of such averages, every such banking company, firm, or individual banker, so neglecting or making such false account or abstract, shall forfeit for every such offence, the sum of Five Hundred Pounds; such penalty to be recovered by action of debt in the Supreme Court, or any other Court of competent jurisdiction in the said Province, by any person who shall sue for the same.

Copy of charter,
letters patent, or
deed of settlement to
be recorded in the
Supreme Court.

4. A copy of the charter, letters patent, or of the deed of co-partnership and settlement of every such banking company, or firm, as aforesaid, attested by the manager, accountant, or clerk for the time being, of such banking companies or firms respectively to be a true transcript of the original charter, letters patent, or of the deed of co-partnership and settlement respectively, of such banking company or firm, or any alteration or addition to such deed, shall be registered and deposited in the Supreme Court of the said Province, by the manager, accountant, or clerk of such banking companies or firms respectively, within thirty days from and after the day on
which

*By Simon
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Banking Companies Act.—1863.

which this Act shall commence and take effect, or as soon thereafter as may be practicable (if not already registered), and the same shall be open for inspection at all reasonable times by any person requiring to inspect the same, on payment of a fee of One Shilling for each such inspection; and if any such manager, accountant, or clerk, shall omit, or neglect so to register such attested copy of the original charter, letters patent, or deed of co-partnership and settlement of any such banking company or firm, as aforesaid, or any alteration or addition thereto, within the time hereinbefore directed for registering the same, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt in the said Supreme Court, or any other Court of competent jurisdiction of the said Province, by any person who shall sue for the same.

Penalty.

5. As often as any new charter, letters patent, or deed of co-partnership and settlement, of any such banking company, or firm, as aforesaid, may issue, or be entered into, or any new banking company, or firm be established, a copy of the charter, letters patent, or of the deed of co-partnership and settlement, attested as aforesaid, shall in like manner be registered and deposited in the said Supreme Court, for the purposes, and subject to the penalty hereinbefore imposed on the party neglecting, or omitting, duly to make such registry as aforesaid.

Copy of new charter letters patent, or deed to be in like manner recorded.

6. The manager, accountant, or clerk, of every such banking company or firm, as aforesaid, shall, within thirty days from and after the first day of July in each and every year, or as soon thereafter as may be practicable, cause a true and correct list of the names of all the persons who shall be then existing proprietors or members of such companies or firms respectively, with their respective places of abode and descriptions, so far as the same shall be known, to be recorded on oath in the said Supreme Court, and the same shall be open for inspection at all reasonable times by any person requiring the same, on payment of a fee of One Shilling for each such inspection; and if any such manager, accountant, or clerk, shall omit or neglect to cause such list to be recorded in manner aforesaid, or shall wilfully falsify any such list, he shall be subject and liable to a penalty of One Hundred Pounds, to be recovered by an action of debt in the said Supreme Court, or any other Court of competent jurisdiction of the said Province, by any person who shall sue for the same.

Names of proprietors to be also recorded in the Supreme Court.

7. Every person, whose name shall be so recorded as aforesaid, shall be considered, taken, and held to be, a member or proprietor of the banking company or firm in which his or her name shall be so recorded as aforesaid, and shall be liable to be sued as such until a new list of the names of the members or proprietors of such banking company, or firm shall be recorded as aforesaid: Provided however, that nothing herein contained shall be deemed or construed to absolve any person from liability on account of any debts incurred by any such banking company or firm, during the time

Liability of such proprietor to be sued.

Proviso.

Banking Companies Act.—1863.

time such person remained a proprietor or member thereof, or to render any individual proprietor or member of any banking company or firm, established by Royal Charter, letters patent, or under "An Act to provide for the Registration of Joint Stock Companies, and for limiting the liability of members thereof," or by any Act of Parliament of Great Britain and Ireland, or of the said Province, liable for any debts incurred by the same, except so far as he or she may be liable under the provisions of such charter, or letters patent, or Act of Parliament.

Oaths to be taken before a Justice.

8. Every oath required to be taken under the provisions of this Act may be taken before any Justice of the Peace, who is hereby authorized to administer the same; and any manager, accountant, or clerk, who shall take any false oath as to any half-yearly abstract of averages, or other matter or thing under the provisions of this Act, shall be subject to such pains and penalties as are by law in force at the time of taking such oath, enacted as to persons convicted of wilful and corrupt perjury.

Penalty for perjury.

Limitations of actions.

9. No action shall lie against any person for any offence committed against the provisions of this Act, unless the same shall be commenced within two years from the time the offence shall be alleged to have been committed.

Proof of inability to comply with Act in given time, to lie on party.

10. If in any case any matter or thing required to be done or performed under the provisions of this Act, within any given period, shall not have been so done or performed, the proof that it was not practicable to do so shall lie upon the party required to do or perform the same: Provided that no excuse shall be allowed for any such failure or neglect unless it be clearly shown that the matter or thing required to be done or performed was done or performed as soon as was practicable.

Proviso.

Defining banks to which Act shall apply.

11. This Act shall apply to every company, firm, or individual publicly engaged in the ordinary business of banking, by receiving deposits, and issuing bills or notes, payable to the bearer, at sight or on demand.

Publication in *Gazette* to be free of charge.

12. All publications required by this Act to be inserted in the *Government Gazette*, shall be so inserted free of charge.

Short title.

13. This Act may be cited as "The Banking Companies Act."

Commencement of Act.

14. This Act shall come into operation on the first day of January, one thousand eight hundred and sixty-four.

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.

SCHEDULE

Banking Companies Act.—1863.

SCHEDULE REFERRED TO.

General Abstract, showing the average amount of the Liabilities and Assets of the Bank of _____, taken from the several weekly statements during the half-year, from the _____ to the _____ 18 _____.

| LIABILITIES. | AMOUNT. | TOTALS. | ASSETS. | AMOUNT. | TOTALS. |
|---|---------|---------|---|---------|---------|
| | £ s. d. | £ s. d. | | £ s. d. | £ s. d. |
| Notes in circulation { Not bearing interest Bearing interest | | | Coined gold and silver, and other coined metals | | |
| Bills in circulation { Not bearing interest Bearing interest | | | Gold and silver in bullion or bars | | |
| Balances due to other banks | | | Government securities | | |
| Deposits { Not bearing interest Bearing interest | | | Landed property | | |
| Total amount of liabilities £ | | | Notes and bills of other banks | | |
| | | | Balances due from other banks | | |
| | | | Amount of all debts due to the bank, including notes, bills of exchange, and all stock and funded debts of every description, excepting notes, bills, and balances due to the said bank from other banks | | |
| | | | Total amount of assets £ | | |
| Amount of the capital stock paid up at the close of the half-year ended 18 | | | | | |
| Rate of the last dividend declared to the shareholders | | | | | |
| Amount of the last dividend declared | | | | | |
| Amount of the reserved profits at the time of declaring such dividend | | | | | |

Place and date.

I, A.B., make oath, that to the best of my knowledge and belief, the foregoing abstract is a true and faithful account of the average amount of assets and liabilities of the above bank during the period specified; and that the same was made up from the weekly statements thereof, kept in pursuance of the provisions of the Act of the Parliament, No. , 1863.

Sworn before me, at _____, this _____ day of _____, 18 _____.

(Signed) A.B.
C. D., Justice of the Peace.

_____, Manager.
_____, Accountant.