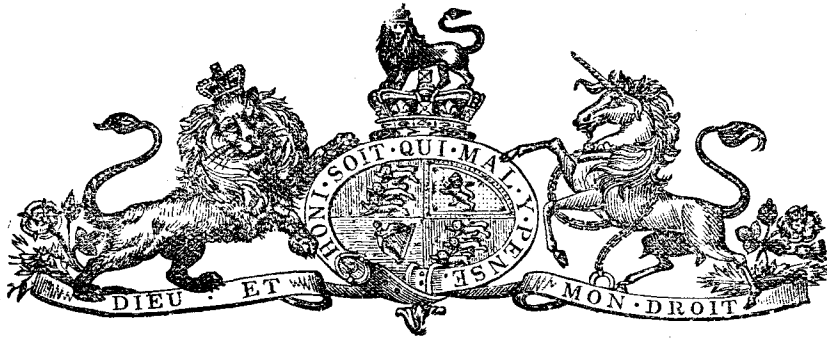


T A S M A N I A.

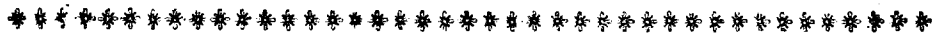


1896.

ANNO SEXAGESIMO

VICTORIÆ REGINÆ,

No. 3.



AN ACT to further amend *The Companies Act, 1869.* A.D. 1896.
[2 October, 1896.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

Preliminary.

1 This Act may be cited for all purposes as “The Companies Act, Short title. 1896.”

2 In this Act the expression “the principal Act” shall mean *The Interpretation. Companies Act, 1869.*

3 Any Company limited by Shares may, by Special Resolution, so far modify the conditions contained in its Memorandum of Association, if authorised so to do by its Regulations as originally framed or as altered by Special Resolution, as to reduce its Capital; but no such Resolution for reducing the Capital of any Company shall come into operation until an Order of the Court is registered by the Registrar as is hereinafter mentioned. Power to Com-
pany to reduce
Capital.

Companies.

A.D. 1896.

Company to add
"and reduced"
to its name for a
limited period.

4 The Company shall, after the date of the passing of any Special Resolution for reducing its Capital, add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall until such date be deemed to be part of the name of the Company within the meaning of the principal Act.

Company to
apply to the
Court for an
Order confirming
reduction.

5 A Company which has passed a Special Resolution for reducing its Capital may apply to the Court by Petition for an Order confirming the reduction; and on the Hearing of the Petition the Court, if satisfied that, with respect to every Creditor of the Company who under the provisions of this Act is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an Order confirming the reduction on such terms and subject to such conditions as it deems fit.

Definition of "the
Court."

6 The expression "the Court" as used in this Act shall mean the Supreme Court in its Equity Jurisdiction, and the One hundred and sixteenth Section of the principal Act shall be construed as if the term "winding up" in that Section included proceedings under this Act; and the Court may in any proceedings under this Act make such Order as to costs as it deems fit.

Creditors may
object to reduc-
tion; and list of
objecting creditors
to be settled by
the Court.

7—(1.) Except as hereinafter provided, where a Company proposes to reduce its Capital every Creditor of the Company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the Company, would be admissible in proof against the Company, shall be entitled to object to the proposed reduction and to be entered in the list of Creditors who are so entitled to object.

(2.) The Court shall settle a list of such Creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any Creditor, the names of such Creditors and the nature and amount of their debts or claims; and may publish Notices fixing a certain day or days within which Creditors of the Company who are not entered on the list are to claim to be so entered or to be excluded from the right of objecting to the proposed reduction.

Court may dis-
pense with consent
of Creditor on
security being
given for his
debt.

8 Where a Creditor whose name is entered on the List of Creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it think fit) dispense with such consent on the Company securing the payment of the debt or claim of such Creditor by setting apart and appropriating, in such manner as the Court may direct, a sum of such amount as is hereinafter mentioned; that is to say—

i. If the full amount of the debt or claim of the Creditor is admitted by the Company, or though not admitted is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

ii. If the full amount of the debt or claim of the Creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it think fit, enquire into and adjudicate upon the validity of

Companies.

such debt or claim and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such enquiry and adjudication shall be set apart and appropriated.

A.D. 1896.

9 Where the reduction of the Capital of a Company does not involve either the diminution of any liability in respect of unpaid Capital, or the payment to any Shareholder of any paid-up Capital—

Consent of Creditors not required in certain cases, and words "and reduced" may be dispensed with.

- i. The Creditors of the Company shall not, unless the Court otherwise direct, be entitled to object or required to consent to the reduction : and
- ii. It shall not be necessary before the presentation of the petition for confirming the reduction, to add, and the Court may, if it think it expedient so to do, dispense altogether with the addition of the words "and reduced," as mentioned in this Act.

10 In any case that the Court think fit so to do, it may require the Company to publish, in such manner as it thinks fit, the reasons for the reduction of its Capital or such other information in regard to the reduction of its Capital as the Court may think expedient, with a view to give proper information to the public in relation to the reduction of its Capital by the Company, and, if the Court think fit, the causes which led to such reduction.

Court may require Company to publish reasons for reduction of Capital.

11—(1.) The Registrar, upon the production to him of an Order of the Court confirming the reduction of the Capital of a Company, and the delivery to him of a copy of the Order and of a Minute (approved by the Court) showing, with respect to the Capital of the Company as altered by the Order, the amount of such capital, the number of shares in which it is to be divided, the amount of each share, and the amount (if any) proposed to be deemed to have been paid up on each share, shall register the Order and Minute; and on the registration the Special Resolution confirmed by the Order so registered shall take effect.

Order and Minute to be registered.

(2.) Notice of such registration shall be published in such manner as the Court may direct.

(3.) The Registrar shall certify under his hand the registration of the Order and Minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of Capital have been complied with, and that the Capital of the Company is such as is stated in the Minute.

12 The Minute, when registered, shall be deemed to be substituted for the corresponding part of the Memorandum of Association of the Company, and shall be of the same validity and subject to the same alterations as if it had been originally contained in the Memorandum of Association; and, subject as in this Act mentioned, no Member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the Minute.

Minute to form part of Memorandum of Association.

13 If any Creditor who is entitled in respect of any debt or claim to object to the reduction of the Capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a

Saving of rights of creditors who are ignorant of proceedings.

Companies.

A.D. 1896.

view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of Creditors, and after such reduction the Company is unable, within the meaning of the One hundred and twelfth Section of the principal Act, to pay to the Creditor the amount of such debt or claim, every person who was a Member of the Company at the date of the registration of the Order and Minute relating to the reduction of the Capital of the Company shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration; and on the Company being wound up, the Court, on the application of such Creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it think fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding up; but the provisions of this Section shall not affect the rights of the contributories of the Company among themselves.

Copy of registered Minute.

14 A Minute when registered shall be embodied in every copy of the Memorandum of Association issued after its registration; and if any Company makes default in complying with the provisions of this Section it shall incur a penalty not exceeding One Pound for each copy in respect of which such default is made; and every Director and Manager of the Company who shall knowingly and wilfully authorise or permit such default shall incur the like penalty.

Penalty on concealment of name of Creditor.

15 If any Director, Manager, or Officer of the Company wilfully conceals the name of any Creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any Creditor of the Company, or if any Director or Manager of the Company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such Director, Manager, or Officer shall be guilty of a Misdemeanor.

Power to make Rules extended to making Rules concerning matters in this Act.

16 The power of making Rules concerning the winding up conferred by the Two hundred and fifth Section of the principal Act shall extend to making Rules concerning matters in which jurisdiction is by this Act given to the Court; and until such Rules are made the practice of the Court in matters of the same nature shall, so far as the same is applicable, be followed.

Compromises with debtors, &c.

17 The provisions of Section Nineteen of "The Companies Act, 1895," are hereby declared to empower the Creditors of a Company which is being wound up voluntarily under the provisions of the principal Act to authorise the Liquidators to make from time to time every such compromise as is mentioned in Section One hundred and eighty-eight of the principal Act with any debtor or contributory or creditor of the Company.

Acts to be read together.

18 This Act and the principal Act and every Act amending the same shall be read and construed together as one and the same Act.