

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,*

*28th September, 1928.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

*2nd October, 1928.*

*Hon. Mr. Rolleston.*

COMPANIES AMENDMENT.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Power to compromise with creditors and members. Court may adopt proceedings taken before passing of this Act. Repeals.</p> <p>3. Alteration of provision as to preferential claims in respect of salaries or wages, in event of liquidation of company, to conform to similar provisions of Bankruptcy Act.</p>	<p>ANALYSIS.</p> <p>4. Requiring payment of certain debts out of assets subject to floating charge in priority to claims under the charge.</p> <p>5. In certain cases shares of deceased shareholder may be transferred without production of probate or of letters of administration.</p>
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A BILL INTITLED

AN ACT to amend the Companies Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Companies Amendment Act, 1928, and shall be read together with and deemed part of the Companies Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs. The expression "arrangement" in this section shall be construed as extending to a reorganization of the share capital of the company by the consolidation of shares of different classes, or by the division of shares into shares of different classes, or by both those methods.

Power to compromise with creditors and members.  
Cf. 8 Edw. VII, c. 69, s. 120

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall if sanctioned by the Court be binding on all the

creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under the *last preceding* subsection shall have no effect until an office copy of the order has been filed with the Registrar of Companies, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company. If a company makes default in complying with the foregoing provisions of this subsection it shall be liable to a fine not exceeding *one* pound for each copy in respect of which default is made, and every director, manager, secretary, or other officer of the company who knowingly and wilfully authorizes or permits the default shall be liable to the like penalty.

Court may adopt proceedings taken before passing of this Act.

(4) If the Court on application made under the foregoing provisions of this section is satisfied that any arrangement or compromise has before the passing of this Act been agreed to by a majority in number representing three-fourths in value of the creditors or any class of the creditors of a company, it may in its discretion dispense with the requirements of this section as to a meeting of creditors or of creditors of such class, as the case may be, and may proceed to make an order under subsection *two* hereof as if a meeting of the creditors or of the creditors of such class had been duly held.

Repeals.

(5) Section two hundred and sixty of the principal Act and section three of the Companies Amendment Act, 1920, are hereby repealed.

Alteration of provision as to preferential claims in respect of salaries or wages, in event of liquidation of company, to conform to similar provisions of Bankruptcy Act.

3. Section two hundred and forty-nine of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection one, and substituting the following paragraphs :—

“(a) All wages or salary of any clerk or servant in respect of services rendered to the company during the whole or any part of the four months immediately preceding the commencement of the winding-up, not exceeding *one hundred* pounds :

“(b) All wages of any artisan, labourer, or workman, whether skilled or unskilled, whether payable for time or piece work, in respect of services rendered to the company during the whole or any part of the four months immediately preceding the commencement of the winding-up, not exceeding *fifty* pounds.”

Requiring payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

*Cf.* 8 Edw. VII, c. 69, s. 107

4. (1) Where in the case of a company registered under the principal Act either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge or possession is taken by or on behalf of those debenture-holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are under the provisions of section two hundred and forty-nine of the principal Act (relating to preferential payments) to be paid in priority to other debts shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said section two hundred and forty-nine shall for the purposes of this section be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

5 (3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

*Struck out.*

10 5. (1) Where any deceased person was at the time of his death registered or equitably entitled to be registered as the holder of shares in a company of a value not exceeding *two hundred* pounds at the date of the death of the deceased, and probate of the will of the deceased shareholder or letters of administration of his estate is or are not produced within such time as the directors consider reasonable, the  
15 directors may, on application in writing of any of the persons specified in the *next succeeding* subsection, and, where the deceased was equitably entitled as aforesaid, with the consent of the registered holder, cause the applicant to be registered as the holder of such shares.

In certain cases shares of deceased shareholder may be transferred without production of probate or of letters of administration.

20 (2) The persons entitled to make application under the *last preceding* subsection are the following :—

- (a) The widow or widower of the deceased shareholder :
- (b) The person or persons entitled to such shares under the will (if any) of the deceased shareholder, or under the statutes of distribution :

25 (c) Any person entitled to take out probate or letters of administration.

(3) Before authorizing any transfer under this section the directors may require the production of proof to their satisfaction of the death of the shareholder.

30 (4) Every person registered in respect of any shares pursuant to this section shall, if not by the will of the deceased or by operation of law beneficially entitled thereto to the exclusion of all other persons, hold the said shares in trust for any other person or persons who may be beneficially interested therein.

35 (5) Notice of every transfer made pursuant to this section shall be given to the Commissioner of Stamp Duties in the form prescribed for the purposes of section sixty-one of the Death Duties Act, 1921, or to the effect thereof. If such notice is not so given within fourteen days after such transfer has been made, every director and manager  
40 of the company who knowingly and wilfully authorizes or permits such default shall be liable to a fine of *five* pounds.

(6) For the purposes of this section the term "shareholder" includes any person who is equitably entitled to be registered as the holder of any shares in a company.