

## No. III.

COMPANIES ACT  
AMENDMENT.

### An Act to amend the Law as to Contributories on the winding-up of Mining Companies. [28th June, 1876.]

Preamble.

37 Vic. No. 19  
ss. 126 161 167.

WHEREAS during the last few years a great number of Companies have been formed for mining purposes the shares in which were divided into paid-up or partly paid-up shares and contributing shares and many of the said Companies are now being wound up under the "Companies Act of 1874" by the provisions of which Act contributing shares only are liable in the first instance for the payment of the debts of such Companies And whereas in certain cases attempts are now and may hereafter be made notwithstanding the payment of all such debts by the holders of contributing shares exclusively to compel the payment by them of the whole balance remaining unpaid on such shares in order ostensibly to adjust the rights of contributories amongst themselves but in reality to divide the fund which would thereby be obtained amongst all shareholders in respect of paid-up and contributing shares alike And whereas it has been decided in England that the term contributories includes in effect the holders of paid-up as well as contributing shares so that persons who have in most instances really contributed nothing to the expenses of the undertaking and nothing to the payment of creditors would be enabled unjustly to compel a further payment by the actual contributories for  
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the benefit exclusively of the holders of nominally paid-up shares. Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. In construing this Act the following terms shall be interpreted in accordance with the meanings hereby assigned to them:— Interpretation of terms.

“Paid-up shares”—Shares in any Company which are agreed to be taken or are considered as paid up in respect of the whole nominal value of such shares.

“Partly paid-up shares”—Shares agreed to be taken or considered as paid-up in respect of part of such nominal value—the balance being either paid in money or agreed to be so paid.

“Contributing shares”—Shares the whole nominal value of which is agreed to be paid in money to the Company.

2. In the adjustment of the rights of contributories amongst themselves on the winding-up of any Company under the aforesaid Companies Act no shareholder shall be deemed a contributory in respect of any paid-up share as above defined held by him or be entitled to share in any surplus wholly or partially derived from calls made on the holders of partly paid-up shares and contributing shares or any of them except only with respect to so much of such surplus as shall have been derived from realized assets of the Company and not from such calls. Who to be deemed contributories (Paid-up shares).

3. In the adjustment of such rights the holders of partly paid-up shares shall be deemed contributories only in respect of calls made on their shares beyond the amount agreed to be considered paid-up and shall to that extent but not further be entitled to share in any surplus derived from calls as aforesaid. The like (Partly paid-up shares).

4. This Act shall apply only to Companies formed under the “Mining Partnerships Act of 1861” And nothing herein shall prevent the distribution of any such surplus in a different manner from that provided by this Act where a different mode of distribution of a surplus derived wholly or in part from calls is in express terms provided for in the articles of association of the Company or shall prevent the holder of any share wholly or in part actually paid in advance from sharing in the surplus in respect of every such payment. Certain Companies and cases excepted.

5. Where any land or mine shall have formed the consideration or have been agreed or declared to be the equivalent or consideration for such paid-up shares or any of them the holders of such shares shall in the winding-up of the Company and in the distribution of the assets thereof be exclusively entitled to share in the proceeds of the sale of such land or mine if sold and shall exclusively as between them and the contributories be deemed the owners of the land or mine if not sold whether the same shall have been worked for mining purposes or not. As to ownership in the land.