

No. XIV.

COMPANIES.

An Act to amend the "Companies Act." [23rd July, 1888.]

Preamble.
37 Vic. No. 19.

WHEREAS doubts have been entertained whether the power given by the "Companies Act" to a company of reducing its capital extends to paid-up capital, and it is expedient to remove such doubts, and to increase such power, and otherwise amend the said Act. 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:—

Short title.

1. This Act may be cited, for all purposes, as the "Companies Act of 1888."

Construction of Act.
40 & 41 Vic., cap. 26,
sec. 2.

2. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the "Companies Act," and the said Acts may be referred to as the "Companies Acts of 1874 and 1888."

Construction of
"capital" and powers
to reduce capital con-
tained in 37 Vic. No.
19.
40 & 41 Vic., cap. 26,
sec. 3.

3. The word "capital," as used in the "Companies Act," shall include paid-up capital; and the power to reduce capital conferred by that Act shall include a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the company; and paid-up capital may be reduced, either with or without extinguishing or reducing the liability (if any) remaining on the shares of the company, and to the extent to which such liability is not extinguished or reduced it shall be deemed to be preserved, notwithstanding anything contained in the "Companies Act."

Application of pro-
vision of 37 Vic. No.
19.
40 & 41 Vic., cap. 26,
sec. 4.

4. The provisions of the "Companies Act," as amended by this Act, shall apply to any company reducing its capital in pursuance of this Act, and of the "Companies Act" as amended by this Act: Provided that 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.

(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 hearing of the petition for confirming the reduction to add, and the Court may, if it thinks it expedient so to do, dispense altogether with the addition of the words "and reduced" as mentioned in the "Companies Act."

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In any case that the Court thinks 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 a company, and if the Court thinks fit, the causes which led to such reduction. The minute required to be registered in the case of reduction of capital shall show, in addition to the other particulars required by law, the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share.

Power to reduce
capital by the cancel-
lation of unissued
shares.
40 & 41 Vic., cap. 26,
sec. 5.

5. Any company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of the passing of such resolution, have not been taken, or agreed

(Consolidated Fund) Appropriation.

agreed to be taken by any person ; and the provisions of the “Companies Act,” shall not apply to any reduction of capital made in pursuance of this section.

6. And whereas it is expedient to make provision for the reception as legal evidence of certificates of incorporation other than the original certificates, and of certified copies of, or extracts from any documents filed and registered under the “Companies Acts of 1874 and 1888.” Be it enacted, that any certificate of the incorporation of any company given by the Registrar, or by any Assistant Registrar for the time being, shall be received in evidence as if it were the original certificate ; and any copy of, or extract from any of the documents or part of the documents kept and registered at any of the offices for the registration of Joint Stock Companies in England, Scotland, or Ireland, or in any of the Australian Colonies, if duly certified to be a true copy under the hand of the Registrar or one of the Assistant Registrars for the time being, and whom it shall not be necessary to prove to be the Registrar or Assistant Registrar, shall, in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as of equal validity with the original document.

Reception of certified
copies of documents
as legal evidence.

37 Vic. No. 19.

40 & 41 Vic., cap. 26,
sec. 6.