

## **COMPANIES (AMENDMENT) ACT.**

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**Act No. 25, 1965.**

**Elizabeth II,** An Act to make further provision as to limitation of members of partnerships, revocation of Minister's approvals of appointment of trustees for debenture holders, furnishing of accounts by borrowing and guarantor corporations, and extending regulation making provisions; for these and other purposes to amend the Companies Act, 1961, as amended; and for purposes connected therewith. [Assented to, 17th December, 1965.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by No. 25, 1965 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.** (1) This Act may be cited as the "Companies Short title and citation. Act, 1965".

(2) The Companies Act, 1961, as amended by the Companies (Amendment) Act, 1964, and by orders of the Governor under section seven of the Companies Act, 1961, as so amended, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Companies Act, 1961-1965.

**2.** The Principal Act is amended by inserting at the end Amendment of Act No. 71, 1961. subsection three of section fourteen the following new proviso:—

Provided that in the case of an association or partnership to be formed for the purpose of carrying on any profession or calling declared by proclamation of the Governor published in the Gazette to be a profession or calling which is not customarily carried on in the Commonwealth by a corporation the foregoing provisions of this subsection shall be read and construed as if the word "twenty" were omitted therefrom and the word "fifty" were substituted therefor.

**No. 25, 1965****3. The Principal Act is further amended—**

Further  
amendment  
of Act No.  
71, 1961.

Sec. 74.  
(Qualifica-  
tions of  
trustee for  
debenture  
holders.)

(a) by inserting next after subsection one of section seventy-four the following new subsection :—

(1A) The approval of a corporation by the Minister pursuant to paragraph (e) of subsection (1) of this section shall be given by notice published in the Gazette and may—

- (a) be given generally or in relation to a particular borrowing corporation or to a particular class of borrowing corporation or in relation to a particular trust deed;
- (b) be given subject to such terms and conditions as the Minister thinks fit and as are specified in the notice; and
- (c) be varied or revoked by the Minister by notice published in the Gazette.

Where any such approval has been revoked as aforesaid the borrowing corporation may thereupon appoint a trustee corporation qualified pursuant to this section in place of the trustee corporation which by reason of such revocation has ceased to be qualified.

Sec. 74A.  
(Retirement  
of trustees.)

(b) by omitting from subsection five of section 74A the word “or” where secondly occurring and by inserting in lieu thereof the words “and in the case where a trustee for the holders of debentures has not been appointed pursuant to subsection (1A) of that section or where the trustee for the holders of debentures”;

(c) by inserting at the end of subsection five of section 74A the following new paragraph :—

(b) (i) Notwithstanding anything contained in the foregoing provisions of this subsection, a profit and loss account and balance-sheet of a borrowing corporation or its guarantor corporation required

Sec. 74F.  
(Obligations  
of borrowing  
corporation.)

required to be made out and lodged in accordance **No. 25, 1965** with subsection (4) of this section need not be audited, or the audit thereof may be of such a limited nature or extent as the trustee for the holders of the debentures of the borrowing corporation may approve where such trustee has, by notice in writing to the directors of the borrowing corporation or guarantor corporation, consented to the audit being dispensed with or being of such a limited nature or extent, as the case may be.

(ii) Where such trustee has so consented, the directors of the corporation in respect of whose profit and loss account and balance-sheet such notice was given, shall lodge with the Registrar a copy of such notice at the time when the profit and loss account and balance-sheet to which the notice relates are lodged with the Registrar.

(iii) Notwithstanding anything contained in this section, a profit and loss account and balance-sheet of a borrowing corporation and a guarantor corporation required to be made out and lodged in accordance with subsection (4) of this section may, unless the trustee for the holders of the debentures of the borrowing corporation otherwise requires in writing, be based upon the value of the stock in trade of the corporation, as reasonably estimated by the directors thereof on the basis of the values of such stock in trade as adopted for the purpose of the profit and loss account and balance-sheet of that corporation laid before the corporation at its last preceding annual general meeting and certified in writing by them as such.

(iv) The provisions of this paragraph shall be deemed to have commenced upon the first day of July, one thousand nine hundred and sixty-four.

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## 4. The Principal Act is further amended—

Further  
amendment  
of Act No.  
71, 1961.Sec. 170.  
(Investiga-  
tion by  
resolution  
of company.)New sec.  
170A.Termination  
of appoint-  
ment of in-  
spectors.

- (a) by inserting in subsection one of section one hundred and seventy after the word "company" the words and symbols "(not being a company to which Division 4 of this Part applies)";
- (b) by inserting next after the same section the following new section :—

170A. Upon the publication in the Gazette of a proclamation under section one hundred and seventy-two declaring a company in respect of which an inspector or inspectors has or have been appointed under section one hundred and sixty-nine or section one hundred and seventy, as the case may be, to be a company to which Division 4 of this Part applies the appointment of such inspector or inspectors shall terminate and he or they, as the case may be, shall cease to have, and shall not exercise any of, the powers and authorities of an inspector or inspectors under this Division.

Further  
amendment  
of Act No.  
71, 1961.Sec. 374.  
(Restriction  
on offering  
shares,  
debentures,  
&c., for sub-  
scription or  
purchase.)Further  
amendment  
of Act No.  
71, 1961.Sec. 385.  
(Regula-  
tions.)

5. The Principal Act is further amended by omitting from subparagraph (ii) of paragraph (c) of subsection four of section three hundred and seventy-four the figure and symbols "(4)" and by inserting in lieu thereof the figure and symbols "(6)".

## 6. The Principal Act is further amended—

- (a) by inserting at the end of paragraph (a) of subsection one of section three hundred and eighty-five the words "and the requirements with which documents lodged or to be lodged with the Registrar shall comply";
- (b)

(b) by inserting at the end of paragraph (c) of the No. 25, 1965 same subsection the following new paragraphs :—

(ca) prescribing the manner in which, and the persons by whom, and the directions or requirements in accordance with which, the forms prescribed for the purposes of this Act, or any of them, shall or may be signed, prepared, or completed, and generally regulating the signing, preparation, and completion of those forms, or any of them;

(cb) the summoning of, conduct of, and procedure and voting at, meetings of creditors, contributories, and holders of debentures, respectively, and at joint meetings of creditors and members of companies, the number of persons who shall constitute a quorum at any such meeting, the sending of notices of meetings to persons entitled to attend thereat, and the lodging with the Registrar of copies of notices of meetings and of resolutions passed thereat, and generally regulating the conduct of, and procedure at, any such meeting;

(cc) prescribing the persons by whom, and the cases and manner in which, proxies may be appointed, and generally regulating the appointment and powers of proxies;

(c) by inserting at the end of the same subsection the following new subsections :—

(1A) The regulations may require—

(a) in cases where documents required by or under this Act to be lodged in accordance with this Act are to be verified or certified and no manner of verification or certification is prescribed by or under this Act, such documents or any of them to be

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be verified or certified by statutory declaration or affidavit made by such persons as may be prescribed;

(b) in cases where no express provision is made for verification or certification of documents, such documents as may be prescribed to be verified or certified as referred to in paragraph (a) of this subsection.

A person shall not in respect of any document be proceeded against for any offence in consequence of any regulation made pursuant to this subsection as well as against subsection (2) of section three hundred and seventy-five.

(1B) The regulations may provide that, in such cases as may be prescribed, where a document that is required by or under this Act to be lodged with the Registrar is signed or lodged on behalf of a person by his agent thereunder authorised in writing there shall be—

- (a) lodged with;
- (b) endorsed on; or
- (c) annexed to,

that document, the original, or a verified copy of the authority.

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