

*Miscellaneous Provisions as to Share Capital.*

Power of company to arrange for different amounts being paid on shares.

**58.** A company, if so authorized by its articles, may do any one or more of the following things—

- (a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares ;
- (b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up ;
- (c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Reserve liability of company.

**59.** A company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Power of company limited by shares to alter its share capital.

**60.** (1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorized by its articles, may alter the conditions of its memorandum as follows, that is to say, it may—

- (a) increase its share capital by new shares of such amount as it thinks expedient ;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares ;
- (c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination ;
- (d) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision

(ii) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it and that person had given the consent required by section 40 to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge before allotment thereunder; and

(iii) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document :

Provided that this subsection shall not apply in the case of a person liable, by reason of his having given a consent required of him by the said section 40, as a person who has authorized the issue of the prospectus in respect of an untrue statement purporting to be made by him as an expert.

(3) A person who, apart from this subsection would under subsection (1) be liable, by reason of his having given a consent required of him by section 40 as a person who has authorized the issue of a prospectus in respect of an untrue statement purporting to be made by him as an expert shall not be so liable if he proves—

- (a) that, having given his consent under the said section 40 to the issue of the prospectus, he withdrew it in writing before delivery of a copy of the prospectus for registration; or
- (b) that, after delivery of a copy of the prospectus for registration and before allotment thereunder, he, on becoming aware of the untrue statement, withdrew his consent in writing and gave

reasonable public notice of the withdrawal, and of the reason therefor ; or

- (c) that he was competent to make the statement and that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true.

(4) Where—

- (a) the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof ; or

- (b) the consent of a person is required under section 40 to the issue of the prospectus and he either has not given that consent or has withdrawn it before the issue of the prospectus,

the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof shall be liable to indemnify the person named as aforesaid or whose consent was required as aforesaid, as the case may be, against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or of the inclusion therein of a statement purporting to be made by him as an expert, as the case may be, or in defending himself against any action or legal proceeding brought against him in respect thereof :

Provided that a person shall not be deemed for the purposes of this subsection to have authorised the issue of a prospectus by reason only of his having given the consent required by section 40 to the inclusion therein of a statement purporting to be made by him as an expert.

(5) For the purposes of this section—

- (a) the expression " promoter " means a promoter who was a party to the preparation of the prospectus or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company ; and

the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived ;

(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.

61. (1) If a company having a share capital has—

(a) consolidated and divided its share capital into shares of larger amount than its existing shares ;  
or

(b) converted any shares into stock ; or

(c) reconverted stock into shares ; or

(d) subdivided its shares or any of them ; or

(e) redeemed any redeemable preference shares ; or

(f) cancelled any shares, otherwise than in connection with a reduction of share capital under section 64 of this Law,

it shall within one month after so doing give notice thereof to the registrar of companies specifying, as the case may be, the shares, consolidated, divided, converted, subdivided, redeemed or cancelled, or the stock reconverted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

62. (1) Where a company having a share capital whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall, within fifteen days after the passing of the resolution authorizing the increase, give to the registrar of companies notice of the increase bearing the same stamp as if it were an agreement, and the registrar shall record the increase.

Notice to registrar of consolidation of share capital, conversion of shares into stock, etc.

Notice of increase of share capital.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the registrar of companies together with the notice a printed copy of the resolution authorizing the increase.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine.

Power of company to pay interest out of capital in certain cases.

**63.** Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant :

Provided that—

- (a) no such payment shall be made unless it is authorized by the articles or by special resolution ;
- (b) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Governor ;
- (c) before sanctioning any such payment the Governor may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry ;
- (d) the payment shall be made only for such period as may be determined by the Governor, and that period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided ;
- (e) the rate of interest shall in no case exceed four per cent per annum or such other rate as may for the time being be prescribed by order of the Governor ;

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- (f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.