

ISLE OF MAN
COMPANIES ACT 1931
(as amended, 2009)

ARRANGEMENT OF SECTIONS

PART I - INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO

Memorandum of Association.

1. Mode of forming incorporated company.
2. Requirements with respect to memorandum.
3. Signature of memorandum.
4. Restriction on alteration of memorandum.
5. Mode in which and extent to which objects of company may be altered.

Articles of Association.

6. Articles prescribing regulations for companies.
7. Regulations required in case of unlimited company.
8. Adoption and application of Table A.
9. Printing and signature of articles.
10. Alteration of articles by special resolution.

Form of Memorandum and Articles.

11. Statutory forms of memorandum and articles.

Registration.

12. Registration of memorandum and articles.
13. Effect of registration.
14. Power of company to hold lands.
15. Conclusiveness of certificate of incorporation.
16. Registration and re-registration of company as limited or unlimited
- 16A. Re-registration under Companies Act 2006

Provisions with respect to Names of Companies.

17. Prohibition of use of undesirable names.
18. Power to dispense "Limited" in name of charitable and other companies.
19. Change of name.

General Provisions with respect to Memorandum and Articles.

- 20. Effect of memorandum and articles.
- 21. Provision as to memorandum and articles of companies limited by guarantee.
- 22. Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent.
- 23. Copies of memorandum and articles to be given to members.
- 24. Issued copies of memorandum to embody alterations.

Membership of Company.

- 25. Definition of member.

Private Companies.

- 26. Meaning of “private company”.
- 27. Circumstances in which company ceases to be, or to enjoy privileges of, a private company.

Reduction of Number of Members below Legal Minimum.

- 28. Prohibition of carrying on business with fewer than two members.

Contracts, etc.

- 29. Company contracts.
- 29A. Execution of documents.
- 29B. Pre-incorporation contracts, deeds and obligations.
- 30. Bills of exchange and promissory notes.
- 31. Execution of deeds abroad.
- 32. Power for company to have official seal for use outside the Isle of Man.

Authentication of Documents.

- 33. Authentication of documents.

PART II - SHARE CAPITAL AND DEBENTURES

Prospectus.

- 34. Dating of prospectus.
- 35. Prospectus to contain material information.
- 36. *Repealed*
- 37. Expert’s consent to issue of prospectus containing statement by him.
- 38. Registration of prospectus.
- 38A. *[Repealed.]*
- 38B. Civil liability for mis-statements in prospectus.
- 38C. Criminal liability for mis-statements in prospectus.
- 38D. Document containing offer of shares or debentures for sale to be deemed prospectus.
- 38DA. Directions concerning defective prospectuses.
- 38E. Interpretation of provisions relating to prospectuses.

Allotment.

- 39. Prohibition of allotment unless minimum subscription received.

- 40. *Repealed*
- 41. Effect of irregular allotment.
- 42. Return as to allotments.
- 42A. Rights to damages etc. not affected.

Commissions and Discounts.

- 43. Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.
- 44. Statement in balance sheet as to commissions and discounts.
- 45. [*Repealed*]

Issue of Redeemable Preference Shares and Shares at Discount.

- 46. Application of premiums received on issue of shares.
- 46A. Power to issue redeemable preference shares.
- 47. Power to issue shares at a discount.

Miscellaneous Provisions as to Share Capital.

- 48. Power of company to arrange for different amounts being paid on shares.
- 49. Reserve liability of limited company.
- 50. Power of company limited by shares to alter its share capital.
- 51. Notice to Financial Supervision Commission of consolidation of share capital, conversion of shares into stock, etc.
- 52. Notice of increase of share capital.
- 53. Power of unlimited company to provide for reserve share capital on re-registration.
- 54. Power of company to pay interest out of capital in certain cases.
- 55. [*Repealed.*]

Reduction of Share Capital.

- 56. Special resolution for reduction of share capital.
- 57. Application to court for confirming order, objections by creditors, and settlement of list of objecting creditors.
- 58. Order confirming reduction and powers of court on making such order.
- 59. Registration of order and minute of reduction.
- 60. Liability of members in respect of reduced shares.
- 61. Penalty on concealment of name of creditor.

Variation of Shareholders' Rights.

- 62. Rights of holders of special classes of shares.

Transfer of Shares and Debentures, Evidence of Title, etc.

- 63. Nature of shares.
- 64. Transfer not to be registered except on production of instrument of transfer.
- 65. Transfer by personal representative.
- 66. Registration of transfer at request of transferor.
- 67. Notice of refusal to register transfer.
- 68. Duties of company with respect to issue of certificates.
- 69. Certificate to be evidence of title.
- 70. Evidence of grant of probate.

- 71. Prohibition of share warrants to bearer.
- 72. Penalty for personation of shareholder.
- 73. Offences in connection with share warrants.

Special Provisions as to Debentures.

- 74. Right of debenture holders and shareholders to inspect register of debenture holders and to have copies of trust deed.
- 75. Perpetual debentures.
- 76. Power to re-issue redeemed debentures in certain cases.
- 77. Specific performance of contracts to subscribe for debentures.
- 78. Payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

PART III - REGISTRATION OF CHARGES

Registration of Charges with Financial Supervision Commission.

- 79. Registration of charges created by companies.
- 80. Duty of company to register charges created by company.
- 81. Duty of company to register charges on property acquired.
- 82. Register of charges to be kept by Financial Supervision Commission.
- 82A. Notice.
- 83. Endorsement of certificate of registration on debentures.
- 84. Entry of satisfaction.
- 85. Rectification of register of charges.
- 85A. Registration of supplemental particulars.
- 86. Registration of enforcement of security.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges.

- 87. Copies of instruments creating charges to be kept by company.
- 88. Company's register of charges.
- 89. Right to inspect copies of instruments creating mortgages and charges and company's register of charges.
- 90. Provisions as to borrowing powers not to apply where conferred by Act of Tynwald.

Application of Part III to Companies incorporated outside the Isle of Man.

- 91. Application of Part III to charges created, and property subject to charge acquired by company incorporated outside the I.O.M.

Transitional Provision as to matters required to be registered under this Act, but not under former Acts.

- 92. Provision as to charges created, and charges on property acquired, by company before commencement of Act.

PART IV - MANAGEMENT AND ADMINISTRATION

Registered Office and Name.

- 93. [Repealed.]
- 94. Publication of name by company.

- 94A. Particulars to be included in business letters, etc.

Restrictions on Commencement of Business.

95. Restrictions on commencement of business.

Register of Members.

96. Register of members.
96A. Statement that company has only one member.
97. Index of members of company.
98. Provision as to entries in register in relation to share warrants.
99. Inspection of register of members.
99A. Non-compliance with ss.96, 97, 99: agent's default.
100. Power to close register.
101. Power of court to rectify register.
102. Trusts not to be entered on register.
103. Register to be evidence.

Branch Register.

104. Power for company to keep branch register.
105. Regulations as to branch register.
106. Provisions as to branch registers of overseas companies kept in the Isle of Man.

Annual Return.

107. Annual return to be made by company having a share capital.
108. Annual return to be made by company not having share capital and company limited by guarantee and having a share capital.
109. General provisions as to annual returns.
110. Certificates to be sent by private company with annual return.

Meetings and Proceedings.

111. Annual general meeting.
112. [*Repealed.*]
113. Convening of extraordinary general meeting on requisition.
114. Provisions as to meetings and votes.
114A. Quorum at meetings of the sole member.
115. Representation of companies at meetings of other companies and of creditors.
116. Provisions as to extraordinary and special resolutions.
117. Registration and copies of certain resolutions and agreements.
118. Resolutions passed at adjourned meetings.

Written resolutions of private companies.

- 118A. Written resolutions of private companies.
118B. Rights of auditors in relation to written resolution.
118C. Written resolutions: supplementary provisions.
119. Minutes of proceedings of meetings and directors.
119A. Recording of written resolutions.
119B. Recording of decisions by the sole member.

120. Inspection of minute books.

Accounts and Audit

121. [Repealed.]
122. [Repealed.]
123. [Repealed.]
124. [Repealed.]
125. [Repealed.]
126. [Repealed.]
127. Accounts to contain particulars as to loans to, and remuneration of directors, etc.
128. [Repealed.]
129. [Repealed.]
130. Certain companies to publish periodical statement.
131. [Repealed.]
132. [Repealed.]
133. [Repealed.]

Inspection.

134. Investigation of affairs of company by inspectors appointed by court.
135. Proceedings on report by inspectors.
136. Power of company to appoint inspectors.
137. Report of inspectors to be evidence.

Directors and Managers.

138. [Repealed.]
139. [Repealed.]
140. Qualification of director or manager.
141. Provisions as to undischarged bankrupts acting as directors.
141A. Resolution to remove director.
141B. Director's right to protest removal.
142. Validity of acts of directors.
143. Register of directors.
144. Particulars with respect to directors in official documents.
145. Limited company may have directors with unlimited liability.
146. Special resolution of limited company making liability of directors unlimited.
147. Statement as to remuneration of directors to be furnished to shareholders.
148. Disclosure by directors of interest in contracts.
148A. Contracts with sole members who are directors.
149. Provision as to payments received by directors for loss of office or on retirement.
150. Provisions as to assignment of office by directors.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

151. Provisions as to liability of officers and auditors.

Arrangements and Reconstructions.

152. Power to compromise with creditors and members.
153. Provisions for facilitating reconstruction and amalgamation of companies.
154. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

Takeovers and mergers

- 154A. Regulations concerning takeovers and mergers

PART V - WINDING UP

(i) PRELIMINARY

Modes of Winding Up.

155. Modes of winding up.

Contributories.

156. Liability as contributories of present and past members.
157. Definition of contributory.
158. Nature of liability of contributory.
159. Contributories in case of death of member.
160. Contributories in case of bankruptcy of member.
161. Provision as to married women.

(ii) WINDING UP BY THE COURT

Cases in which Company may be wound up by court.

162. Circumstances in which company may be wound up by court.
163. Definition of inability to pay debts.

Petition for Winding Up and Effects thereof.

164. Provisions as to applications for winding up.
165. Powers of court on hearing petition.
166. Power to stay or restrain proceedings against company.
167. Avoidance of dispositions of property, etc., after commencement of winding up.
168. Avoidance of attachments, etc.

Commencement of Winding Up.

169. Commencement of winding up by the court.

Consequences of Winding-up Order.

170. Copy of order to be forwarded to Financial Supervision Commission.
171. Actions stayed on winding-up order.
172. Effect of winding-up order.

Official Receiver in Winding Up.

173. Official receiver appointed by Treasury.
174. Appointment of official receiver by court in certain cases.
175. Statement of company's affairs to be submitted to official receiver.
176. Report by official receiver.

Liquidators.

- 177. Power of court to appoint liquidators.
- 178. Appointment and powers of provisional liquidator.
- 179. Appointment, style, etc., of liquidators in winding up.
- 180. Provisions where person other than official receiver is appointed liquidator.
- 181. General provisions as to liquidators.
- 182. Custody of company's property.
- 183. Vesting of property of company in liquidator.
- 184. Powers of liquidator.
- 185. Exercise and control of liquidator's powers.
- 186. Books to be kept by liquidator.
- 187. Payments by liquidator into court, etc.
- 188. Audit of liquidator's accounts in winding up.
- 189. Control of court over liquidators.
- 190. Release of liquidators.

Committees of Inspection.

- 191. Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.
- 192. Constitution and proceedings of committee of inspection.
- 193. Powers of court where no committee of inspection.

General Powers of Court in case of Winding Up by Court

- 194. Power to stay winding up.
- 195. Settlement of list of contributories and application of assets.
- 196. Delivery of property to liquidator.
- 197. Payment of debts due by contributory to company and extent to which set off allowed.
- 198. Power of court to make calls.
- 199. Payment into court of moneys due to company.
- 200. Order on contributory conclusive evidence.
- 201. Appointment of special manager.
- 202. Power to exclude creditors not proving in time.
- 203. Adjustment of rights of contributories.
- 204. Inspection of books by creditors and contributories.
- 205. Power to order costs of winding up to be paid out of assets.
- 206. Power to summon persons suspected of having property of company.
- 207. Power to order public examination of promoters, directors, etc.
- 208. Power to restrain fraudulent persons from managing companies.
- 209. Power to arrest absconding contributory.
- 210. Powers of court cumulative.
- 211. Delegation to liquidator of certain powers of court.
- 212. Dissolution of company.

Enforcement of and Appeal from Orders.

- 213. Appeals from orders.

(iii) VOLUNTARY WINDING UP

Resolutions for, and commencement of Voluntary Winding Up.

- 214. Circumstances in which company may be wound up voluntarily.
- 215. Notice of resolution to wind up voluntarily.
- 215A. Commencement of voluntary winding up.

Effect of Voluntary Winding Up.

- 216. Effect of voluntary winding up on business and status of company.
- 217. Avoidance of transfers, etc., after commencement of voluntary winding up.

Declaration of Solvency.

- 218. Statutory declaration of solvency in case of proposal to wind up voluntarily.

Provisions applicable to a Members' Voluntary Winding Up.

- 219. Provisions applicable to a members' voluntary winding up.
- 220. Power of company to appoint and fix remuneration of liquidators.
- 221. Power to fill vacancy in office of liquidator.
- 222. Power of liquidator to accept shares, etc., as consideration for sale of property of company.
- Appointment of arbitrator.
- In case of death, etc., of arbitrator, how vacancy supplied.
- Appointment of umpire.
- Appointment of umpire by court in certain cases.
- Arbitrators may call for books.
- Arbitrators may award costs.
- 223. Duty of liquidator to call general meeting at end of each year.
- 224. Final meeting and dissolution.

Provisions applicable to a Creditors' Voluntary Winding Up.

- 225. Provisions applicable to a creditors' winding up.
- 226. Meeting of creditors.
- 227. Appointment of liquidator.
- 228. Appointment of committee of inspection.
- 229. Fixing of liquidators' remuneration and cesser of directors' powers.
- 230. Power to fill vacancy in office of liquidator.
- 231. Application of s.222 to a creditors' voluntary winding up.
- 232. Duty of liquidator to call meetings of company and of creditors at end of each year.
- 233. Final meeting and dissolution.

Provisions applicable to every Voluntary Winding Up.

- 234. Provisions applicable to every voluntary winding up.
- 235. Distribution of property of company.
- 236. Powers and duties of liquidator in voluntary winding up.
- 237. Appointment of liquidator.
- 238. Notice by liquidator of his appointment.
- 239. Arrangement when binding on creditors.
- 240. Power to apply to court to have questions determined or powers exercised.
- 241. Costs of voluntary winding up.
- 242. Saving for rights of creditors and contributories.

(iv) WINDING UP SUBJECT TO SUPERVISION OF COURT

- 243. Power to order winding up subject to supervision.
- 244. Effect of petition for winding up subject to supervision.
- 245. Application of ss.167 and 168 to winding up subject to supervision.
- 246. Power of court to appoint additional liquidators.
- 246A. Effect of supervision order.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP

Proof and Ranking of Claims.

- 247. Debts of all descriptions to be proved.
- 248. Application of bankruptcy rules in winding up of insolvent companies.
- 249. Preferential payments.

Effect of Winding Up on antecedent and other Transactions.

- 250. Fraudulent preference.
- 251. Effect of floating charge.
- 252. Disclaimer of onerous property in case of company being wound up.
- 253. Restriction of rights of creditor as to execution or attachment in case of company being wound up.
- 254. Duties of coroner as to goods taken in execution.

Offences antecedent to or in course of Winding Up.

- 255. Offences by officers of companies in liquidation.
- 256. Penalty for falsification of books.
- 257. Frauds by officers of companies which have gone into liquidation.
- 258. *[Repealed.]*
- 259. Responsibility of directors for fraudulent trading.
- 260. Power of court to assess damages against delinquent directors, etc.
- 261. Prosecution of delinquent officers and members of company.

Supplementary Provisions as to Winding Up.

- 262. Disqualification for appointment as liquidator.
- 263. Enforcement of duty of liquidator to make returns, etc.
- 264. Notification that a company is in liquidation.
- 265. Books of company to be evidence.
- 266. Disposal of books and papers of company.
- 267. Information as to pending liquidations.
- 268. Unclaimed assets to be paid into court.
- 269. Resolutions passed at adjourned meetings of creditors and contributories.

Supplementary Powers of Court.

- 270. Meetings to ascertain wishes of creditors or contributories.
- 271. Affidavits, etc., in United Kingdom and dominions.

Provisions as to Dissolution.

- 272. Power of court to declare dissolution of company void.
- 273. Financial Supervision Commission may strike defunct company off register.

- 273A. Alternative procedure for dissolving solvent companies.
- 273B. Restoration of dissolved companies to the register.
- 274. Property of dissolved company to be *bona vacantia*.
- 274A. Power to disclaim title to property vesting under section
- 274B. Disposal of property vesting under section 274.
- 274C. [*Repealed*]

Officers.

- 275. Officers and remuneration.

Rules and Fees.

- 276. Fees to be paid, etc.

PART VI - RECEIVERS AND MANAGERS

- 277. Disqualification for appointment as receiver.
- 278. Power to appoint official receiver as receiver for debenture holders or creditors.
- 279. Notification that receiver or manager has been appointed.
- 280. Power of court to fix remuneration on application of liquidator.
- 281. Delivery to Financial Supervision Commission of accounts of receivers and managers.
- 282. Enforcement of duty of receiver to make returns, etc.

PART VII - GENERAL PROVISIONS AS TO REGISTRATION

- 283. Registration to be made at the office for the registration of companies.
- 283A. Financial Supervision Commission may prescribe fees payable.
- 283B. Power of Financial Supervision Commission to refuse to register or receive documents.
- 283C. Appeals from decisions of Financial Supervision Commission.
- 284. Power of Financial Supervision Commission to accept information in non-document form.
- 284A. Inspection, production and evidence of documents kept by Financial Supervision Commission.
- 285. Enforcement of duty of company to make returns to Financial Supervision Commission.
- 285A. Exclusion of deemed notice.

PART VIII - APPLICATION OF ACT TO COMPANIES FORMED OR REGISTERED UNDER FORMER ACTS

- 286. Application of Act to companies formed under former Companies Acts.
- 287. Application of Act to companies registered under former Companies Acts.
- 288. Application of Act to companies registered under former Companies Acts.
- 289. Provision as to companies registered under the Joint Stock Companies Acts.

PART IX - COMPANIES NOT FORMED UNDER THIS ACT AUTHORISED TO REGISTER UNDER THIS ACT

- 290. Companies capable of being registered.
- 291. Definition of joint stock company.
- 292. Requirements for registration by joint stock companies.
- 293. Requirements for registration by other than joint stock companies.
- 294. Authentication of statements of existing companies.
- 295. Registrar may require evidence as to nature of company.

- 296. *[Repealed.]*
- 297. Addition of “limited” to name.
- 298. Certificate of registration of existing companies.
- 299. Vesting of property on registration.
- 300. Saving for existing liabilities.
- 301. Legal proceedings.
- 302. Effect of registration under Act.
- 303. Power to substitute memorandum and articles for deed of settlement.
- 304. Power of court to stay or restrain proceedings.
- 305. Actions stayed on winding up order.

PART X - WINDING UP OF UNREGISTERED COMPANIES

- 306. Meaning of unregistered company.
- 307. Winding up of unregistered companies.
- 308. Contributories in winding up of unregistered company.
- 309. Power of court to stay or restrain proceedings.
- 310. Actions stayed on winding up order.
- 311. Provisions of this Part of Act cumulative.

PART XI - COMPANIES INCORPORATED OUTSIDE THE ISLE OF MAN CARRYING ON BUSINESS WITHIN THE ISLE OF MAN

- 312. Companies to which Part XI applies.
- 313. Documents, etc., to be delivered to Financial Supervision Commission by companies carrying on business in Isle of Man.
- 313A. Regulation of oversea companies in respect of their names.
- 314. Power of companies incorporated outside the Isle of Man to hold lands.
- 315. Return to be delivered to registrar where documents, etc., altered.
- 316. *[Repealed.]*
- 317. Obligation to state name of company, whether limited, and country where incorporated.
- 318. Service on company to which Part XI applies.
- 319. Office where documents to be filed.
- 319A. Financial Supervision Commission may strike defunct, etc. foreign companies off register.
- 320. Penalties.
- 321. Interpretation of Part XI.

PART XII - RESTRICTIONS ON SALE OF SHARES AND OFFERS OF SHARES FOR SALE

- 322. *Repealed.*
- 323. *Repealed.*
- 323A. *Repealed.*
- 323B. *Repealed.*
- 323C. *Repealed.*
- 323D. *Repealed.*
- 323E. *Repealed.*
- 324. *Repealed.*
- 324A. Exemptions from prospectus requirements

PART XIII - MISCELLANEOUS

Dispensations for Private Companies.

324B. Power to provide dispensation by regulation.

Prohibition of Partnerships with more than Twenty Members.

325. Prohibition of partnerships with more than twenty members.

Miscellaneous Offences.

326. Penalty for false statement.

327. Perjury.

328. Penalty for improper use of word "Limited".

329. Forging seal, etc., of Financial Supervision Commission or of company shall be felony.

General Provisions as to Offences.

330. Provision with respect to default fines and meaning of "officer in default".

331. Prosecution of offences punishable by fine.

331A. [*Repealed.*]

332. Application of fines.

333. Saving as to private prosecutors.

334. Saving for privileged communications.

Service of Documents and Legal Proceedings.

335. Service of documents on company.

335A. Service of documents on company.

336. Costs in action by certain limited companies.

337. Power of court to grant relief in certain cases.

338. Power to enforce orders.

339. Proceedings in Chambers.

340. Power to alter tables and forms.

340A. Prescribed forms.

340B. Public documents.

Interpretation.

341. Interpretation.

342. Interpretation: public offers.

Savings, Extent, Short Title and Commencement.

343. Savings.

344. Saving of pending proceedings for winding up.

345. Short title and commencement.

SCHEDULES

FIRST SCHEDULE

Table A - Regulations for management of a company limited by shares.

Table B - Form of memorandum of association of a company limited by shares.

Table C - Form of memorandum and articles of association of a company limited by guarantee, and not having a share capital.

Table D - Memorandum and articles of association of a company limited by guarantee, and having a share capital.

Table E - Memorandum and articles of association of an unlimited company having a share capital.

SECOND SCHEDULE

[Repealed]

THIRD SCHEDULE

Repealed

FOURTH SCHEDULE

Repealed

FIFTH SCHEDULE

Repealed

SIXTH SCHEDULE

[Repealed]

SCHEDULE 6A

Written resolutions of private companies.

SEVENTH SCHEDULE

Form of statement to be published by banking and insurance companies, and deposit, provident, or benefit societies.

EIGHTH SCHEDULE

Provisions which do not apply in the case of a winding up subject to supervision of the court.

NINTH SCHEDULE

[Repealed]

TENTH SCHEDULE

Provisions referred to in section 326 of the Act.

PART I - INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO

Memorandum of Association.

Mode of forming incorporated company.

1.(1) Any two or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability.

(2) Such a company may be either -

- (a) A company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed “a company limited by shares”); or
- (b) A company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed “a company limited by guarantee”); or
- (c) A company not having any limit on the liability of its members (in this Act termed “an unlimited company”).

(3) Notwithstanding subsection (1), one person may, for a lawful purpose, by subscribing his name to a memorandum of association and otherwise complying with the requirements of the Companies Acts 1931 to 1993 in respect of registration, form an incorporated company being a private company limited by shares or by guarantee.

Requirements with respect to memorandum.

2.(1) Subject to section 29 of the Companies Act 1992 the memorandum of every company must state -

- (a) The name of the company, with “Limited” as the last word of the name in the case of a company limited by shares or by guarantee;
- (b) The registered office of the company is to be situate in the Isle of Man;
- (c) The objects of the company.

(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital -

- (a) The memorandum must also, unless the company is an unlimited company, state the

amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

- (b) No subscriber of the memorandum may take less than one share;
- (c) Each subscriber must write opposite to his name the number of shares he takes.

Signature of memorandum.

3. The memorandum must be signed by each subscriber in the presence of at least one witness who must attest the signature.

Restriction on alteration of memorandum.

4. A company may not alter the conditions contained in its memorandum except in the cases, in the mode and to the extent for which express provision is made in this Act.

Mode in which and extent to which objects of company may be altered.

5.(1) Subject to subsection (2) a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it -

- (a) to carry on its business more economically or more efficiently; or
- (b) to attain its main purpose by new or improved means; or
- (c) to enlarge or change the local area of its operations; or
- (d) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum; or
- (f) to sell or dispose of the whole or any part of the undertaking of the company; or
- (g) to amalgamate with any other company or body of persons.

(2) If an application is made to the court in accordance with this section for the alteration to be cancelled, it shall not have effect except in so far as it is confirmed by the court.

(3) Subject to subsection (4), an application under this section may be made -

- (a) by the holders of not less in the aggregate than 15 per cent in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares, not less than 15 per cent of the company's members; or
- (b) by the holders of not less than 15 per cent of the company's debentures entitling the

holders to object to alterations of its objects.

(4) An application under this section shall not be made by any person who has consented to or voted in favour of the alteration.

(5) An application under this section must be made within 1 month after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(6) Subject to subsection (7), on an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement.

(7) No part of the capital of the company shall be expended in any purchase mentioned in subsection (6).

(8) The debentures entitling the holders to object to alterations of a company's objects shall be any debentures secured by a floating charge which were issued or first issued before the 1st day of June, 1981, or form part of the same series as any debentures so issued, and a special resolution altering a company's objects shall require the same notice to the holders of any such debentures as to members of the company. In default of any provisions regulating the giving of notice to any such debenture holders, the provisions of the company's articles regulating the giving of notice to members shall apply.

(9) In the case of a company which is, by virtue of a licence from the Attorney General, exempt from the obligations to use the word "limited" as part of its name, a resolution altering the company's objects shall also require the same notice to the Attorney General as to members of the company.

(10) Subject to subsection (11) where a company passes a resolution altering its objects -

- (a) if no application is made with respect thereto under this section, it shall within 1 month from the end of the period for making such an application deliver to the Financial Supervision Commission a printed copy of its memorandum as altered; and
- (b) if such an application is made it shall -
 - (i) forthwith give notice in the prescribed form of that fact to the Financial Supervision Commission; and
 - (ii) within 1 month from the date of any order cancelling or confirming the alteration deliver to the Financial Supervision Commission a certified copy of the order and, in the case of an order confirming the alteration a printed copy of the memorandum as altered.

(11) In case of default in delivering to the Financial Supervision Commission the documents mentioned in subsection (10), within the time stipulated, the company or any person liable for the default shall apply to the Financial Supervision Commission who shall accept late delivery of the documents upon payment by the applicant of such fees as may be prescribed under section 283A.

(12) If a company makes default in giving notice or delivering any document to the Financial Supervision Commission as required by subsection (10), the company and every officer of the company who is in default shall be liable -

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

(13) The validity of an alteration of the provisions of a company's memorandum with respect to the objects of the company shall not be questioned on the ground that it was not authorised by subsection (1) except in proceedings taken for the purpose (whether under this section or otherwise) before the expiration of 1 month after the date of the resolution in that behalf; and where any such proceedings are taken otherwise than under this section subsections (10) to (12) shall apply in relation thereto as if they had been taken under this section and as if an order declaring the alteration invalid were an order cancelling it and as if an order dismissing the proceedings were an order confirming the alteration.

Articles of Association.

Articles prescribing regulations for companies.

6. There may in the case of a company limited by shares, and there shall be in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

Regulations required in case of unlimited company.

7.(1) In the case of an unlimited company the articles, if the company has a share capital, must state the amount of share capital with which the company proposes to be registered.

(2) *[Repealed]*

(3) *[Repealed]*

Adoption and application of Table A.

8.(1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares and registered after the commencement of this Act, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Printing and signature of articles.

9. Articles must -

- (1) be printed;
- (2) be divided into paragraphs numbered consecutively;

- (3) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature.

Alteration of articles by special resolution.

10.(1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Act, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

Form of Memorandum and Articles

Statutory forms of memorandum and articles.

11. The form of -

- (1) the memorandum of association of a company limited by shares;
- (2) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (3) the memorandum and articles of association of a company limited by guarantee and having a share capital;
- (4) the memorandum and articles of association of an unlimited company having a share capital;

shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule to this Act, or as near thereto as circumstances admit.

Registration.

Registration of memorandum and articles.

12. The memorandum and the articles, if any, shall be delivered to the Financial Supervision Commission, and the Financial Supervision Commission shall retain and register them.

Effect of registration.

13.(1) On the registration of the memorandum of a company the Financial Supervision Commission shall certify that the company is incorporated, and in the case of a limited company that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be

a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Power of company to hold lands.

14. A company incorporated under this Act shall have power to hold lands.

Conclusiveness of certificate of incorporation.

15.(1) A certificate of incorporation given by the Financial Supervision Commission in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company duly registered under this Act.

(2) [Repealed]

(3) [Repealed]

Registration and re-registration of company as limited or unlimited.

16.(1) Subject to the provisions of this section, a company registered as unlimited may register under this Act as limited, or a company already registered as a limited company may re-register as an unlimited company under this Act, but the registration of an unlimited company as a limited company shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of the company before the registration, and those rights or liabilities may be enforced in manner provided by Part IX of this Act in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section the Financial Supervision Commission shall close the former registration of the company, and may dispense with the delivery to it of copies of any documents with copies of which it was furnished on the occasion of the original registration of the company but, save as aforesaid, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Act, and as if the provisions of the Acts under which the company was previously registered and regulated had been contained in different Acts from those under which the company is registered as a limited company.

Re-registration under Companies Act 2006

16A.(1) A company incorporated under this Act may, for the avoidance of doubt, re-register as a company incorporated under the Companies Act 2006, subject to compliance with the provisions of that Act.

(2) A company that re-registers as a company incorporated under the Companies Act 2006 shall deliver to the Registrar (as therein defined) a certified copy of the certificate of re-registration issued pursuant to that Act within 14 days of the date thereof.

(3) A company that re-registers as a company incorporated under the Companies Act 2006 shall, with effect from the date of the certificate of re-registration referred to in subsection (2), cease to be a company registered

under this Act and the Companies Acts 1931 to 2004 shall cease to apply to it from that date.

(4) Upon receipt of a certified copy of a certificate of registration pursuant to subsection (2), the Financial Supervision Commission shall issue a certificate of de-registration to the company stating that the company ceased to be registered under this Act on the date specified in subsection (3).

Provisions with respect to Names of Companies

Prohibition of use of undesirable names.

17.(1) The Financial Supervision Commission may –

- (a) refuse to register a company by a name, or refuse to register a change of a name of a company, which in its opinion is undesirable; or
- (b) by direction attach conditions to the use of a name by a company to be registered or registered under this Act to ensure that it is not undesirable; or
- (c) direct that a company change its name if in its opinion the name by which a company is registered is undesirable.

(2) For the purposes of this section -

- (a) ‘undesirable’ means misleading, offensive or in any way likely to be harmful to the public;
- (b) the Financial Supervision Commission may publish guidance notes setting out the criteria which it will apply in determining whether a name is undesirable;
- (c) the Financial Supervision Commission may prescribe forms for use with this section.

(3) A direction given under subsection (1)(b) or (c) must, if not made the subject of an application under subsection (5), be complied with within six weeks of the date of that direction, at the expiry of which the Financial Supervision Commission may, if the direction has not been complied with, change the name of the company upon the register to a name which is not undesirable and shall provide notice to the company of such change within seven days of the date of the change upon the register.

(4) A copy of any direction given under subsection (1)(c), and any change of name effected by the Financial Supervision Commission under subsection (3) shall be placed by the Financial Supervision Commission upon the public file of the company maintained at the Companies Registry.

(5) Any person interested, may, within three weeks of a refusal to register a company under subsection (1)(a), or of being given a direction under subsection (1)(b) or (c), apply to the Court for the refusal or direction to be set aside, and if the application to set aside a direction fails, the Court may specify a period within which the direction shall be complied with, or may order that the Financial Supervision Commission change the name of the company upon the register to a name which is not undesirable, on such terms and conditions as seem to the Court just and expedient.

Power to dispense “Limited” in name of charitable and other companies.

18.(1) Where it is proved to the satisfaction of the Attorney General that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Attorney General may by licence direct that the association may be registered as a company with limited liability, without the addition of the word “Limited” to its name, and the association may be registered accordingly.

(2) A licence by the Attorney General under this section may be granted on such conditions and subject to such regulations as the Attorney General thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Attorney General so direct, be inserted in the memorandum and articles, or in one of those documents.

(2A) If a company makes default in complying with any condition or regulation subject to which a licence was granted to it under subsection (2) above, the company and each of its directors shall be liable -

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word “Limited” as any part of its name, and publishing its name, and of sending lists of members to the Financial Supervision Commission.

(4) A licence under this section may at any time be revoked by the Attorney General and upon revocation the Financial Supervision Commission shall enter the word “Limited” at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section:

Provided that before a licence is so revoked the Attorney General shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

(5) Where the name of the association contains the words “Chamber of Commerce”, the notice to be given aforesaid shall include a statement of the effect of the provisions of subsection (3) of the next following section of this Act.

(6) No licence shall be granted under this section in respect of a public company or have effect in respect of such a company.

Change of name.

19.(1) A company may, by special resolution and with the approval of the Financial Supervision Commission signified in writing, change its name.

(2) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name is registered by a name which, in the opinion of the Financial Supervision Commission is too like the name by which a company in existence is previously registered in any of the British Islands or the Republic of Ireland, the first-mentioned company may change its name with the sanction of the Financial Supervision Commission and, if it so directs within six months of its being registered by that name, shall change it within a period of six weeks from the date of the direction or such longer period as the Financial Supervision Commission may think fit to allow.

If a company makes default in complying with a direction under this subsection, it shall be liable to a fine not exceeding £5,000.

(2A) If it appears to the Financial Supervision Commission that misleading information has been given for the purpose of a company's registration with a particular name, or that undertakings or assurances have been given for that purpose and have not been fulfilled, it may within 5 years of the date of its registration with that name in writing direct the company to change its name within such period as it may specify.

(2B) If a company makes default in complying with a direction under subsection (2A) above, it shall be liable to a fine not exceeding £5,000.

(3) Where a licence granted in pursuance of the last foregoing section of this Act to a company the name of which contains the words "Chamber of Commerce" is revoked, the company shall, within a period of six weeks from the date of the revocation or such longer period as the Financial Supervision Commission think fit to allow, change its name to a name which does not contain those words.

If a company makes default in complying with the requirements of this subsection, it shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

(4) Where a company changes its name, the Financial Supervision Commission shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; and the change of name has effect from the date on which the altered certificate is issued.

(5) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

General Provisions with respect to Memorandum and Articles.

Effect of memorandum and articles.

20.(1) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by each member, and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company, and be of the nature of a speciality debt.

Provision as to memorandum and articles of companies limited by guarantee.

21.(1) In the case of a company limited by guarantee and not having a share capital, and registered on or after the first day of January, nineteen hundred and nine, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

(2) For the purpose of the provisions of this Act relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee and registered on or after the date aforesaid, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of

the shares or interests is not specified thereby.

Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent.

22. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company.

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

Copies of memorandum and articles to be given to members.

23.(1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, and a copy of any Act of Tynwald which alters the memorandum, subject to payment, in the case of a copy of the memorandum and of the articles, of such reasonable sum as the company may prescribe, and, in the case of a copy of an Act, of such sum not exceeding the published price thereof as the company may require.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a fine not exceeding £1,000.

Issued copies of memorandum to embody alterations.

24.(1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum which are not in accordance with the alteration, it shall be liable to a fine not exceeding £1,000 and every officer of the company who is in default shall be liable to the like penalty.

Membership of Company.

Definition of member.

25.(1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered on its register of members, shall be a member of the company.

(3) Where two or more persons hold one or more shares in a company jointly they shall be treated as a single member.

Private Companies.

Meaning of “private company”.

- 26.(1)** For the purposes of this Act the expression “private company” means a company which -
- (a) by its articles prohibits any invitation to the public to subscribe for any shares or debentures of the company; and
 - (b) in the case of a company to which Part I of the Companies Act 1986 applies, includes a statement in its memorandum of association that the company is a private company.
- (2)** *[Repealed]*

Circumstances in which company ceases to be, or to enjoy privileges of, a private company.

27.(1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under the last foregoing section of this Act, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company.

(2) If default is made in complying with subsection (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine of £5,000.

(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in subsection (3) of section one hundred and nine, and paragraph (4) of section one hundred and sixty-two of this Act, and thereupon the said provisions shall apply to the company as if it were not a private company:

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

Reduction of Number of Members below Legal Minimum

Prohibition of carrying on business with fewer than two members.

28. If at any time the number of members of a company, other than a private company limited by shares or by guarantee, is reduced below two, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognisant of the fact that it is carrying on business with fewer than two members shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

Contracts, etc.

Company contracts.

29.(1) A contract may be made -

- (a) by a company, by writing under its common seal, or
- (b) on behalf of a company, by any person acting under its authority, express or implied;

and any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company.

(2) The Treasury may make provision by regulations applying this section and sections 29A and 29B to companies incorporated outside the Island, subject to such exceptions, adaptations or modifications as may be specified in the regulations.

Execution of documents.

29A.(1) The following provisions have effect with respect to the execution of documents by a company.

- (2) A document is executed by a company by the affixing of its common seal.
- (3) A company need not have a common seal, however, and the following subsections apply whether it does or not.
- (4) A document signed by a director and the secretary of a company, or by two directors of a company, and expressed (in whatever form of words) to be executed by the company has the same effect as if executed under the common seal of the company.
- (5) A document executed by a company which makes it clear on its face that it is intended by the person or persons making it to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.
- (6) In favour of a purchaser a document shall be deemed to have been duly executed by a company if it purports to be signed by a director and the secretary of the company, or by two directors of the company, and, where it makes it clear on its face that it is intended by the person or persons making it to be a deed, to have been delivered upon its being executed.
- (7) In subsection (6), “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

Pre-incorporation contracts, deeds and obligations.

29B.(1) A contract which purports to be made by or on behalf of a company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Subsection (1) applies to the making of a deed under the law of the Isle of Man as it applies to the making of

a contract.

Bills of exchange and promissory notes.

30. A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by on behalf or on account of, the company by any person acting under its authority.

Execution of deeds abroad.

31.(1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the Isle of Man.

(2) A deed signed by such attorney on behalf of the company shall bind the company and have the same effect as if it were under its common seal.

Power for company to have official seal for use outside the Isle of Man.

32.(1) A company which has a common seal whose objects require or comprise the transaction of business in places outside the Isle of Man, may, if authorised by its articles, have for use in any territory, district, or place not situate in the Isle of Man, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place where it is to be used.

(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district or place may, by writing under its common seal, authorise any person appointed for the purpose in that territory, district or place, to affix the official seal to any deed or other document to which the company is party in that territory, district or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument, to which the seal is affixed, the date on which and the place at which it is affixed.

Authentication of Documents.

Authentication of documents.

33. A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company, and need not be under its common seal.

PART II - SHARE CAPITAL AND DEBENTURES

Prospectus.

Dating of prospectus.

34. A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

Prospectus to contain material information.

35.(1) The directors of a company or (in the case of a company yet to be incorporated) the proposed directors shall ensure that any prospectus issued in relation to such company shall -

- (a) contain all material information relating to the offer or invitation which the prospectus contains in it -
 - (i) that the intended recipients would reasonably expect to be included in it in order to enable them to make an informed decision as to whether or not to accept the offer or make the application referred to in it; and
 - (ii) of which the directors or proposed directors (as the case may be) were aware at the time of issue of the prospectus, or of which they would have been aware had they made such enquiries as would have been reasonable in all the circumstances; and
- (b) set out such information fairly and accurately.

(2) In this section, “intended recipients” means those persons who, taking into account the terms of the prospectus and all the circumstances in which the prospectus was issued, might reasonably be expected to accept an offer to acquire shares or debentures contained in the prospectus or to apply to acquire such shares or debentures.

(3) Subject to subsection (4), it shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section.

If any person acts in contravention of this subsection, he shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

(4) Subsection (3) shall not apply if it is shown that the form of application was issued either -

- (a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or
- (b) in relation to shares or debentures which were not offered to the public.

(5) Subject to subsection (6), in the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason the non-compliance or contravention, if -

- (a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
- (c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused.

(6) In the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 17 of the Fourth Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(7) This section shall not apply -

- (a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or
- (b) to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a prescribed stock exchange;

but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(8) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

36. *Repealed*

Expert's consent to issue of prospectus containing statement by him.

37.(1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless -

- (a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
- (b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus.

(2) If any prospectus is issued in contravention of this section the company and every person who is knowingly

a party to the issue thereof shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

(3) In this section “expert” includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him.

Registration of prospectus.

38.(1) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless, on or before the date of its publication, there has been delivered to the Financial Supervision Commission for registration a copy of the prospectus signed by every person who is named in it as a director or proposed director of the company, or by an agent of that person authorised in writing, and having endorsed on it or attached to it any consent to the issue of the prospectus required by section 37 from any person as an expert.

(2) Every prospectus shall, on the face of it -

- (a) state that a copy has been delivered for registration as required by this section; and
- (b) specify, or refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to the copy so delivered.

(3) The Financial Supervision Commission shall not register a prospectus unless it is dated and the copy thereof signed in manner required by this section and unless it has endorsed thereon or attached thereto the documents, if any, specified as aforesaid.

(4) If a prospectus is issued without a copy thereof being delivered under this section to the Financial Supervision Commission or without the copy so delivered having endorsed thereon or attached thereto the required documents, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine not exceeding £5,000.

38A. [Repealed]

Civil liability for mis-statements in prospectus.

38B.(1) Subject to the provisions of this section, where a prospectus invites persons to subscribe for shares in or debentures of a company, the following persons shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement included therein, that is to say -

- (a) every person who is a director of the company at the time of the issue of the prospectus;
- (b) every person who has authorised himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time;

- (c) every person being a promoter of the company; and
- (d) every person who has authorised the issue of the prospectus.

(2) Where, under section thirty-seven, the consent of a person is required to the issue of a prospectus and he has given that consent, he shall not by reason of his having given it to be liable under subsection (1) as a person who has authorised the issue of the prospectus except in respect of an untrue statement purporting to be made by him as an expert.

(3) Subject to subsection (4), no person shall be liable under subsection (1) if he proves -

- (a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or
- (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
- (c) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto and gave reasonable public notice of the withdrawal and of the reason therefor; or
- (d) that -
 - (i) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, 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; and
 - (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 thirty-seven 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.

(4) Subsection (3) shall not apply in the case of a person liable, by reason of his having given a consent required of him by section thirty-seven, as a person who has authorised the issue of the prospectus in respect of an untrue statement purporting to be made by him as an expert.

(5) 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 thirty-seven, as a person who has authorised 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 section thirty-seven 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.

(6) Subject to subsection (7), where -

- (a) the prospectus contains the name of a person as a director of a 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 thirty-seven 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.

(7) A person shall not be deemed for the purposes of subsection (6) to have authorised the issue of a prospectus by reason only of his having given the consent required by section thirty-seven to the inclusion therein of a statement purporting to be made by him as an expert.

(8) For the purposes of this section -

- (a) “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
- (b) “expert” has the same meaning as in section thirty-seven.

Criminal liability for mis-statements in prospectus.

38C.(1) Where a prospectus issued after the commencement of this Act includes any untrue statement, any person who authorised the issue of the prospectus shall be liable -

- (a) on conviction on information, to imprisonment for a term not exceeding two years or a fine, or both; or
- (b) on summary conviction, to imprisonment for a term not exceeding three months or a fine

not exceeding £5,000, or both;

unless he proves either that the statement was immaterial or that he had reasonable ground to believe and did, up to the time of the issue of the prospectus, believe that the statement was true.

(2) A person shall not be deemed for the purposes of this section to have authorised the issue of a prospectus by reason only of his having given the consent required by section thirty-seven to the inclusion therein of a statement purporting to be made by him as an expert.

Document containing offer of shares or debentures for sale to be deemed prospectus.

38D.(1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown -

- (a) that an offer of the shares or debentures or any of them for sale to the public was made within six months after the allotment or agreement to allot; or
- (b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section thirty-five as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus -

- (a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
- (b) the place and time at which the contract under which the said shares or debentures have been or are allotted may be inspected;

and section thirty-eight as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company.

(4) Where a person making an offer to which this section relates is a company or a partnership, it shall be sufficient if the document aforesaid is signed on behalf of the company or partnership by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.

Directions concerning defective prospectuses

38DA.(1) The Financial Supervision Commission may make a direction under subsection (2) if it becomes prospectuses aware of matters which give it reasonable cause to believe that -

- (a) a statement included in a prospectus is untrue or misleading; or
- (b) a prospectus has been issued in contravention of, or otherwise than in compliance with, a provision of sections 34 to 38.

(2) In the circumstances mentioned in subsection (1) the Financial Supervision Commission may direct the company to amend the prospectus so that -

- (a) it contains no untrue or misleading statement; or
- (b) the contravention or non-compliance referred to in subsection (1)(b) is rectified.

(3) A copy of any direction under subsection (2) shall be placed by the Financial Supervision Commission upon the public file of the company maintained at the Companies Registry.

(4) This section is without prejudice to the other provisions of sections 34 to 38E.

Interpretation of provisions relating to prospectuses.

38E. For the purposes of the foregoing provisions of this Part -

- (a) a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
- (b) a statement shall be deemed to be included in a prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

Allotment

Prohibition of allotment unless minimum subscription received.

39.(1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors, must be raised by the issue of share capital in order to provide for the matters specified in paragraph 5 in Part I of the Fourth Schedule to this Act has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company.

For the purposes of this subsection a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as “the minimum subscription”.

(3) The amount payable on application on each share shall not be less than five per cent of the nominal amount

of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within forty-eight days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the forty-eighth day:

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3) thereof, shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Financial Supervision Commission.

40. *Repealed*

Effect of irregular allotment.

41.(1) An allotment made by a company to an applicant in contravention of the provisions of the two last foregoing sections of this Act, shall be voidable at the instance of the applicant within one month after the date of the allotment and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes, or permits or authorises the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of the allotment.

Return as to allotments.

42.(1) Whenever a company having a share capital makes any allotment of its shares, the company shall within one month thereafter deliver to the Financial Supervision Commission for registration -

- (a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names and addresses of the allottees, and the amount, if any, paid or due and payable on each share; and
- (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a return in the prescribed form stating -

- (i) the number and nominal amount of shares so allotted;
- (ii) the extent to which they are to be treated as paid up; and
- (iii) a true and fair summary of the contract of sale, or for services or other consideration in respect of which the allotment was made.

(1A) Subsection (1) shall not apply in respect of such classes of companies as are prescribed by order made by the Treasury.

(2) *[Repealed]*

(3) If default is made in complying with this section, every director, manager, secretary or other officer of the company, who is knowingly a party to the default, shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Rights to damages etc. not affected.

42A. A person is not debarred from obtaining damages or other compensation from a company by reason only of his holding or having held shares in the company or any right to apply or subscribe for shares or to be included in the company's register in respect of shares.

Commissions and Discounts.

Power to pay certain commissions, and prohibition of payments of all other commissions, discounts, etc.

43.(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if-

- (a) the payment of the commission is authorised by the articles; and
- (b) the commission paid or agreed to be paid does not exceed ten per cent of the price at which the shares are issued or the amount or rate authorised by the articles, whichever is the less; and
- (c) the amount or rate per cent of the commission paid or agreed to be paid is -
 - (i) in the case of shares offered to the public for subscription disclosed in the prospectus; or
 - (ii) in the case of shares not offered to the public for subscription, disclosed in a statement in the prescribed form signed in the prescribed manner and delivered before the payment of the commission to the Financial Supervision Commission for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and

(d) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or unconditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

(5) If default is made in complying with the provisions of this section relating to the delivery to the Financial Supervision Commission of the statement in the prescribed form, the company and every officer of the company who is in default shall be liable to a fine not exceeding £2,500.

Statement in balance sheet as to commissions and discounts.

44.(1) Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance sheet of the company until the whole amount thereof has been written off.

(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.

Prohibition of provision of financial assistance by company for purchase of its own shares.

45. [Repealed]

Issue of Redeemable Preference Shares and Shares at Discount.

Application of premiums received on issue of shares.

46.(1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called “the share premium account”, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section and section 46A(7), apply as if the share premium account were paid up share capital of the company.

(2) The share premium account may, notwithstanding anything in the foregoing subsection, be applied by the

company in paying up unissued shares of the company to be allotted to members of the company as fully paid bonus shares, or in writing off -

- (a) the preliminary expenses of the company; or
- (b) the expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the company;

or in providing for the premium payable on redemption of any redeemable preference shares or of any debentures of the company in providing for the redemption of shares in accordance with proviso (a)(iii) to section 46A(1) or transfers to the capital redemption reserve fund in accordance with proviso (d) of section 46A(1).

(3) Subject to subsection (4), where a company has before the commencement of the 1982 Act issued any shares at a premium, this section shall apply as if the shares had been issued after the commencement of the 1982 Act.

(4) Any part of the premiums which has been so applied that it does not at the commencement of the 1982 Act form an identifiable part of the company's reserves within the meaning of Schedule 1 to the 1982 Act shall be disregarded in determining the sum to be included in the share premium account.

(5) In this section, "the 1982 Act" means the Companies Act 1982.

Power to issue redeemable preference shares.

46A.(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised by its articles, may, subject to the provisions of -

- (a) this section, issue preference shares which are, or at the option of the company or the holder are to be liable, to be redeemed;
- (b) section 62 of this Act, convert the whole, or any particular class, of its preference shares into redeemable preference shares:

Provided that -

- (a) no such shares shall be redeemed otherwise than out of-
 - (i) the profits of the company which would otherwise be available for dividend; or
 - (ii) the proceeds of a fresh issue of shares made for the purpose of the redemption; or
 - (iii) the share premium account:
- (b) no such shares shall be redeemed unless they are fully paid;
- (c) the premium, if any, payable on redemption must have been provided for -
 - (i) out of profits which would otherwise be available for dividend; or
 - (ii) out of any share premium account:

of the company before the shares are redeemed;

- (d) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue as aforesaid, there shall be transferred, out of profits which would otherwise have been available for dividend or out of any share premium account to a reserve fund to be called the "capital redemption reserve fund" a sum equal to the nominal value of the shares redeemed, and the provisions of this Act relating to the reduction of share capital of a company shall, except as provided by this section, apply as if the capital redemption reserve fund were paid up share capital of the company.

(2) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms, and in such manner, as may be provided by the articles of the company.

(3) The redemption, under this section, of preference shares by a company shall not be taken as reducing the amount of the authorised share capital of the company.

(4) Subject to subsection (5) where, in pursuance of this section, a company has redeemed, or is about to redeem, any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or, as the case may be, to be redeemed as if those shares had never been issued and, accordingly, for the purpose of any enactment relating to companies' registration fees, the share capital of the company shall not be deemed to be increased by the issue of shares in pursuance of this subsection.

(5) Where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to any enactment relating to companies' registration fees, be deemed to have been issued in pursuance of the subsection unless the old shares are redeemed within the period of one month beginning with the day of issue of the new shares.

(6) Notwithstanding anything in this section, the capital redemption reserve fund may be applied by the company in paying up unissued shares of the company for issue to shareholders thereof as fully paid bonus shares.

(7) Notwithstanding the provisions of section 56(1), it shall not be necessary for a company to obtain the confirmation of the court when redeeming preference shares in accordance with the provisions of this section.

(8) Whenever any company makes any allotment of redeemable preference shares which in accordance with the articles of the company do not entitle the person to whom the allotment is made to exercise the right to vote at a meeting of the company, or such shares are redeemed by the company, it shall within one month after so doing give notice to the Financial Supervision Commission stating the gross nominal value of the shares allotted or redeemed as the case may be, and a company acting in accordance with the provisions of this subsection need not otherwise comply with sections 42 and 51(1)(e).

Power to issue shares at a discount.

47.(1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued:

Provided that -

- (a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company, and must be sanctioned by the court;
- (b) the resolution must specify the maximum rate of discount at which the shares are to be

issued;

- (c) not less than one year must at the date of the issue have elapsed since the date on which the company was entitled to commence business;
- (d) the shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the court or within such extended time as the court may allow.

(2) Where a company has passed a resolution authorising the issue of shares at a discount, it may apply to the court for an order sanctioning the issue, and on any such application the court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares and every balance sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question.

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

Miscellaneous Provisions as to Share Capital.

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

48. A company, if so authorised by its articles, may do any one or more of the following things -

- (1) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payments of calls on their shares:
- (2) 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:
- (3) 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:
- (4) Issue its shares in fractional denominations and deal with such fractions to the same extent as its whole shares and shares in fractional denominations shall have in proportion to the respective fractions represented thereby all of the rights of whole shares including, but without limiting the generality of this paragraph, the right to vote, to receive dividends and distributions and to participate in a winding up.

Reserve liability of limited company.

49. A limited 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.

50.(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised 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 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 Act.

Notice to Financial Supervision Commission of consolidation of share capital, conversion of shares into stock, etc.

51.(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) re-converted 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 fifty-six of this Act,

it shall within one month after so doing give notice thereof to the Financial Supervision Commission specifying, as the case may be, the shares consolidated, divided, converted, subdivided, redeemed or cancelled, or the stock re-converted.

(1A) Subsection (1)(e) and (f) shall not apply in respect of such classes of companies as are prescribed by order made by the Treasury.

(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.

Notice of increase of share capital.

52.(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 one month after the passing of the resolution authorising the increase, give to the Financial Supervision Commission notice of this increase, and the Financial Supervision Commission shall record the increase.

(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 Financial Supervision Commission together with the notice a printed copy of the resolution authorising 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 unlimited company to provide for reverse share capital on re-registration.

53. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely -

- (1)** Increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;
- (2)** Provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

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

54.(1) 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 authorised by the articles or by special resolution:

- (b) No such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Treasury:
- (c) Before sanctioning any such payment the Treasury may, at the expense of the company, appoint a person to inquire and report to it 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 Treasury, 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 the Treasury:
- (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:
- (g) The accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

(2) If default is made in complying with proviso (g) to subsection (1) of this section, the company and every officer of the company who is in default shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

55. [Repealed]

Reduction of Share Capital.

Special resolution for reduction of share capital.

56.(1) Subject to confirmation by the court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorised by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may -

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or
- (c) either with or without extinguishing or reducing liability on any of its shares pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its

shares accordingly.

(2) A special resolution under this section is in this Act referred to as a 'resolution for reducing share capital'.

Application to court for confirming order objections by creditors, and settlement of list of objecting creditors.

57.(1) Where a company has passed a resolution for reducing share capital it may apply by petition to the court for an order confirming the reduction.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, the following provisions shall have effect, subject nevertheless to the next following subsection -

- (a) Every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction:
- (b) The court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction:
- (c) Where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the court may direct, the following amount -
 - (i) If the company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim;
 - (ii) If the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound up by the court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) of this section shall not apply as regards any class or any classes of creditors.

Order confirming reduction and powers of court on making such order.

58.(1) The court, if satisfied, with respect to every creditor of the company who under the last foregoing section is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

- (2) Where a court makes any such order, it may -
- (a) if for any special reason it thinks proper so to do, make an order directing that the company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof the words “and reduced”; and
 - (b) make an order requiring the company to publish as the court directs the reasons for reduction or such other information in regard thereto as the court may think expedient with a view to giving proper information to the public, and, if the court thinks fit, the causes which led to the reduction.
- (3) Where a company is ordered to add to its name the words “and reduced,” those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the company.

Registration of order and minute of reduction.

- 59.(1)** The Financial Supervision Commission, on production to it of an order of the court confirming the reduction of the share capital of a company, and the delivery to it of a copy of the order and of a minute approved by the court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.
- (2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.
- (3) Notice of the registration shall be published in such manner as the court may direct.
- (4) The Financial Supervision Commission shall certify the registration of the order and minute, and its certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.
- (5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.
- (6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section twenty-four of this Act.

Liability of members in respect of reduced shares.

60.(1) In the case of a reduction of share capital a member of the company, past or present shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be:

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to the winding up by the court, to pay the amount of his debt or claim, then -

- (a) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and
 - (b) if the company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.
- (2) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor.

61. If any director, manager, secretary, or other officer of the company -

- (1) wilfully conceals the name of any creditor entitled to object to the reduction; or
- (2) wilfully misrepresents the nature or amount of the debt or claim of any creditor; or
- (3) aids, abets or is privy to any such concealment or misrepresentation as aforesaid,

he shall be guilty of a misdemeanour.

Variation of Shareholders' Rights.

Rights of holders of special classes of shares.

62.(1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent, of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per cent of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court.

(2) An application under this section must be made within seven days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the appellant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The company shall within fifteen days after the making of an order by the court on any such application

forward a copy of the order to the Financial Supervision Commission, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be liable to a default fine.

(6) The expression “variation” in this section includes abrogation and the expression “varied” shall be construed accordingly.

Transfer of Shares and Debentures, Evidence of Title, etc.

Nature of shares.

63.(1) The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number, except that, if at any time all the issued shares in a company, or all the issued shares in it of a particular class, are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.

Transfer not to be registered except on production of instrument of transfer.

64. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company:

Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

Transfer by personal representative.

65. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

Registration of transfer at request of transferor.

66. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Notice of refusal to register transfer.

67.(1) If a company refuses to register a transfer of any shares or debentures, the company shall, within two months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Duties of company with respect to issue of certificates.

68.(1) Every company shall within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the date on which a transfer of any such shares, debentures, or debenture stock, is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

The expression "transfer" for the purpose of this subsection means a transfer duly executed and otherwise valid, and does not include such a transfer as the company is for any reason entitled to refuse to register and does not register.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

(3) If any company on which a notice has been served requiring the company to make good any default in complying with the provisions of subsection (1) of this section fails to make good the default within ten days after the service of the notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

Certificate to be evidence of title.

69. A certificate, under the common seal of the company or the seal kept by the company by virtue of section 2 of the Stock Exchange (Completion of Bargains) (Isle of Man) Act 1979, specifying any shares held by any member, shall be *prima facie* evidence of the title of the member to the shares.

Evidence of grant of probate.

70. The production to a company of any document which is by law sufficient evidence of probate of the will, or

letters of administration of the estate, of a deceased person having been granted to some person shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of the grant.

Prohibition of share warrants to bearer.

71.(1) Any provision in the memorandum or articles of a company registered on or after 1st April 2004 which purports to authorise the issue of a warrant stating that the bearer is entitled to the shares therein specified, shall be void.

(2) A warrant as described in subsection (1) shall be termed a “share warrant”.

(3) Subject to subsection (4), in the case of any company registered before 1st April 2004 any provision in its memorandum or articles which authorises, or is capable of authorising, the issue of share warrants on or after 1st April 2004 shall be void.

(4) Any share warrant lawfully issued on or before 1st April 2004 shall remain valid in respect of the rights and obligations attached to it and which may accrue thereafter save that no rights attached to a share warrant may be exercised by the holder of a share warrant after that date without the conversion of the share warrant into a registered share.

Penalty for personation of shareholder.

72.(1) If any person falsely and deceitfully holds himself out as an owner of any share or interest in any company, or of any share warrant or coupon relating to it and obtains or endeavours to obtain any such share or interest or share warrant or coupon relating to it, or receives or endeavours to receive any money due to any such owner, as if he were the true and lawful owner, he shall be liable -

- (a) on conviction on information to a fine;
- (b) on summary conviction, to a fine not exceeding £5,000.

(2) If a company acts in contravention of this section the company and any officer who is in default shall be liable -

- (a) on conviction on information to a fine;
- (b) on summary conviction, to a fine not exceeding £5,000.

Offences in connection with share warrants.

73.(1) If any person -

- (a) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon, issued in pursuance of this Act; or
- (b) by means of such forged or altered share warrant, coupon, or document, purporting as

aforesaid, demands or endeavours to obtain or receive any share or interest in any company under this Act, or to receive any dividend or money payable in respect thereof, knowing the warrant, coupon or document to be forged or altered;

he shall be liable on conviction on information to a fine and on summary conviction, to a fine not exceeding £5,000.

(2) If any person without lawful authority or excuse, proof whereof shall lie on him -

- (a) copies, engraves or makes on any plate, wood, stone, or other material any share warrant or coupon purporting to be-
 - (i) a share warrant or coupon issued or made by any particular company in pursuance of this Act; or
 - (ii) a blank share warrant or coupon so issued or made; or
 - (iii) a part of such a share warrant or coupon; or
- (b) uses any such plate, wood, stone, or other material for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon, or any part thereof respectively: or
- (c) knowingly has in his custody or possession any such plate, wood, stone, or other material;

he shall be liable on conviction on information to a fine and on summary conviction, to a fine not exceeding £5,000.

Special Provisions as to Debentures.

Right of debenture holders and shareholders to inspect register of debenture holders and to have copies of trust deed.

74.(1) Every register of holders of debentures of a company shall, except when duly closed, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company but subject to such reasonable restrictions as the company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection.

For the purposes of this subsection a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole thirty days in any year, as may be therein specified.

(2) Every registered holder of debentures and every holder of shares in a company may require a copy of the register of the holders of debentures of the company or any part thereof on payment of such reasonable fee (if any) as the company may prescribe.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of such reasonable fee (if any) as the company may prescribe.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be liable to a fine not exceeding £5,000.

(5) Where a company is in default as aforesaid, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

Perpetual debentures.

75. A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Act, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

Power to re-issue redeemed debentures in certain cases.

76.(1) Where either before or after the commencement of this Act a company has redeemed any debentures previously issued, then-

- (a) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or
- (b) unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.

(2) On a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has power to re-issue debentures which have been redeemed particulars with respect to the debentures which can be so re-issued shall be included in every balance sheet of the company.

(4) Where a company has either before or after the passing of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(5) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the passing of this Act, shall be treated as the issue of a new debenture for purposes of any enactment relating to companies' registration fees or duties, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

(6) Where any debentures which have been redeemed before the date of the commencement of this Act are re-issued subsequently to that date, the re-issue of the debentures shall not prejudice any right or priority which any person would have had under or by virtue of any mortgage or charge created before the date of the commencement of this Act, if section one hundred and six of the Companies (Consolidation) Act, 1910, as originally enacted, had been enacted in this Act instead of this section.

Specific performance of contracts to subscribe debentures.

77. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

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

78.(1) Where, in the case of a company registered in the Isle of Man or elsewhere, 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 Part V of this Act relating to preferential payments to be paid in priority to all other debts, shall be paid 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 provisions of Part V of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(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.

PART III - REGISTRATION OF CHARGES

Registration of Charges with Financial Supervision Commission.

Registration of charges created by companies.

79.(1) Subject to the provisions of this Part of this Act, every charge created after the fixed date by a company and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or evidenced (or a copy of that instrument certified in the prescribed manner to be a correct copy), are delivered to or received by the Financial Supervision Commission for registration in manner required by this Act within one month after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) This section applies to the following charges -

- (a) a charge for the purpose of securing any issue of debentures;
- (b) a charge on uncalled share capital of the company;
- (c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration;
- (d) a charge on land, wherever situate, or any interest therein;
- (e) a charge on book debts of the company;

- (f) a floating charge on the undertaking or property of the company;
- (g) a charge on calls made but not paid;
- (h) a charge on a ship or an aircraft or any share in a ship;
- (i) a charge on goodwill or on any intellectual property.

(2A) In subsection (2) “intellectual property” means -

- (a) any patent, trade mark, service mark, registered design, copyright or design right;
- (b) any licence under or in respect of any such right.

(2B) A charge comprising property of a company is only a charge to which this section applies if -

- (a) the company is beneficially interested in the property or, in the case of future property, is to be beneficially interested in that property; and
- (b) the company controls or is otherwise able to charge the legal interest in that property or, in the case of future property, is to control or otherwise to be able to charge that interest.

(3) Subsection (3AA) applies if -

- (a) a charge is created outside the Isle of Man; and
- (b) comprises solely property situate outside the Isle of Man.

(3AA) Where this subsection applies, the time within which the particulars and the instrument or copy referred to in subsection (1) are to be delivered to the Financial Supervision Commission shall be one month after the relevant date.

(3AB) In subsection (3AA), the relevant date is that on which, in the ordinary course of post and if dispatched with due diligence, the instrument or copy could have been received in the Isle of Man.

(3A) In the case of a charge which -

- (a) was created or purported to be created, before 1 July 1996; and
- (b) was validated by section 6(3) of the Law Reform (Miscellaneous Provisions) Act 1996; and
- (c) is a charge to which this section applies but which has not been registered in accordance with this Part,

subsection (1) shall have effect as if the reference to registration within 1 month after the date of the creation of a charge were substituted by a reference to registration within 6 months after the date on which this subsection comes into operation.

(4) Where a charge is created in the Isle of Man but comprises property outside the Isle of Man, the instrument creating or purporting to create the charge (or a copy of that instrument certified in the prescribed manner to be a correct copy) may be sent for registration under this section notwithstanding that further proceedings may be

necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts.

(6) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land.

(7) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall for the purposes of this section be sufficient if there are delivered to or received by the Financial Supervision Commission within one month after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series the following particulars -

- (a) the total amount secured by the whole series; and
- (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and
- (c) a general description of the property charged; and
- (d) the names of the trustees, if any, for the debenture holders;

together with the deed containing the charge (or a copy of the deed certified in the prescribed manner to be a correct copy), or, if there is no such deed, one of the debentures of the series (or a copy of the debenture certified in the prescribed manner to be a correct copy):

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Financial Supervision Commission for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(8) Where any commission, allowance, or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent of the commission, discount, or allowance so paid or made, but omission shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this subsection be treated as the issue of the debentures at a discount.

(9) In this Part of this Act -

- (a) the expression "charge" includes mortgage;
- (b) the expression "the fixed date" means in relation to the charges specified in paragraphs (a) to (f), both inclusive, of subsection (2) of this section, the twenty-seventh day of September, nineteen hundred and ten, and in relation to the charges specified in paragraphs (g) to (i), both inclusive, of the said subsection, the commencement of this Act.

Duty of company to register charges created by company.

80.(1) It shall be the duty of a company to send to the Financial Supervision Commission for registration the particulars of every charge created by the company and of the issue of debentures of a series, requiring registration under the last foregoing section, but registration of any such charge may be effected on the application of any person interested therein.

(2) Where registration is effected on the application of some person other than the company that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Financial Supervision Commission on the registration.

(3) If any company makes default in sending to the Financial Supervision Commission for registration the particulars of any charge created by the company, or of the issues of debentures of a series, requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every director, manager, secretary or other person, who is knowingly a party to the default shall be liable to -

- (a) on information, a fine,
- (b) on summary trial, a fine not exceeding £5,000.

Duty of company to register charges on property acquired.

81.(1) Where after the commencement of this Act a company acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part of this Act, the company shall cause the prescribed particulars of the charge, together with the instrument or a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Financial Supervision Commission for registration in manner required by this Act within one month after the date on which the instrument or the acquisition is completed:

Provided that, if the property is situate and the charge was created outside the Isle of Man, one month after the date on which the instrument or copy could in due course of post, and if dispatched with due diligence, have been received in the Isle of Man shall be substituted for one month after the completion of the acquisition as the time within which the particulars and the instrument or the copy of the instrument are to be delivered to the Financial Supervision Commission.

(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 of £5,000.

Register of charges to be kept by Financial Supervision Commission.

82.(1) The Financial Supervision Commission shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part of this Act, and shall, on payment of the fee prescribed under section 283A, enter in the register with respect to such charges the following particulars -

- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in subsection (7) of section seventy-nine of this Act;

- (b) in the case of any other charge -
 - (i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property; and
 - (ii) the amount secured by the charge; and
 - (iii) short particulars of the property charged; and
 - (iv) the persons entitled to the charge.

(2) The Financial Supervision Commission shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part of this Act, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part of this Act as to registration have been complied with.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the fee prescribed under section 283A.

(4) *[Repealed]*

Notice.

82A.(1) A person taking a charge requiring registration under section 79 of this Act shall be taken to have notice of any matter requiring registration and disclosed on the register at the time the charge is created.

(2) Otherwise a person shall not be taken to have notice of any matter by reason of it being disclosed on the register or by reason of his having failed to search the register in the course of making such inquiries as ought reasonably to be made.

(3) The above provisions have effect subject to any other statutory provision as to whether a person is to be taken to have notice of any matter disclosed on the register.

Endorsement of certificate of registration on debentures.

83.(1) The company shall cause a copy of every certificate of registration given under section 82 to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the charge so registered:

Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.

(2) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he shall, without prejudice to any other liability, be liable to -

- (a) on information, a fine;

- (b) on summary trial, a fine not exceeding £5,000.

Entry of satisfaction.

84. The Financial Supervision Commission may, on evidence being given to its satisfaction that the debt for which any registration charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required furnish the company with a copy thereof.

Rectification of register of charges.

85. The court, on being satisfied that the omission to register a charge within the time required by this Act, or that the omission or misstatement of any particular with respect to any such charge or in a memorandum of satisfaction, was accidental, or due to inadvertence or to some other sufficient case, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified.

Registration of supplemental particulars

85A.(1) Further particulars of a charge registered under section 79 or section 81, which supplement or vary the registered particulars, may be delivered to the Financial Supervision Commission under this section by the company or the chargee or any person interested, for registration at any time, provided that –

- (i) the further particulars do not of themselves, constitute the creation of a charge by the company;
- (ii) the further particulars are in the prescribed form signed by or on behalf of the company or the chargee or the person interested; and
- (iii) if further particulars are delivered to the Financial Supervision Commission for registration and appear to it to be duly signed, the Financial Supervision Commission shall file the particulars in the register relating to the company and shall note, in such form as it thinks fit, the date on which they were delivered to it.

(2) The Financial Supervision Commission shall keep, with respect to each company, in the register prescribed by section 82(1) the further particulars (if any), which may be delivered to the Financial Supervision Commission under this section, but the Financial Supervision Commission shall not be required to issue a certificate of the registration of the further particulars filed.

(3) Section 80 (duty of company to register charges created by the company) and section 81 (duty of company to register charges on property acquired) shall not apply in respect of this section.

Registration of enforcement of security.

86.(1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall within seven days from the date of the order or of the appointment under the said powers give notice of the fact to the Financial Supervision Commission and the Financial Supervision Commission shall, on payment of the fee prescribed under section 283A, enter the fact in the register of charges.

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the Financial Supervision Commission notice to that effect, and the Financial Supervision Commission shall enter the notice in the register of charges.

(3) If any person makes default in complying with the requirements of this section he shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges.

Copies of instruments creating charges to be kept by company.

87. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part of this Act to be kept at the registered office of the company:

Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

Company's register of charges.

88.(1) Every limited company shall keep at the registered office of the company a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

(2) If any director, manager, or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine not exceeding £5,000.

Right to inspect copies of instruments creating mortgages and charges and company's register of charges.

89.(1) The copies of instruments creating any charge requiring registration under this Part of this Act with the Financial Supervision Commission, and the register of charges kept in pursuance of the last foregoing section, shall be open during business hours, but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection, to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding the fee payable under section 82(3) of this Act, as the company may prescribe.

(2) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorising or knowingly and wilfully permitting the refusal, shall be liable to a fine not exceeding £5,000.

(3) If any such refusal occurs in relation to a company, the court may by order compel an immediate inspection of the copies or register.

Provisions as to borrowing powers not to apply where conferred by Act of Tynwald.

90. The provisions of this Act under the heading of “registration of charges,” that is to say, sections 79 to 89 inclusive, shall not apply to the exercise by any company of borrowing powers expressly conferred on such company by any Act of Tynwald.

Application of Part III to Companies incorporated outside the Isle of Man.

Application of Part III to charges created, and property subject to charge acquired by company incorporated outside Isle of Man.

91.(1) Subject to subsection (1A), the provisions of this Part of this Act shall extend to charges on property in the Isle of Man which are created, and to charges on property in the Isle of Man which is acquired, after the commencement of this Act by a company (whether a company within the meaning of this Act or not) incorporated outside the Isle of Man which has duly delivered documents to the Financial Supervision Commission under section 313 and has not subsequently given notice to it under section 319(2) that it has ceased to have a place of business in the Isle of Man.

(1A) This section only applies to property in the Isle of Man -

- (a) in which the company is beneficially interested or, the case of future property, is to be beneficially interested; and
- (b) in respect of which the company controls or is otherwise able to charge the legal interest in that property or, in the case of future property, is to control or otherwise to be able to charge that interest.

(2) In relation to such a company sections 87 and 88 apply with the substitution for the references to the company’s registered office, of a reference to its principal place of business in the Isle of Man.

Transitional Provision as to matters required to be registered under this Act, but not under former Acts.

Provision as to charges created, and charges on property acquired, by company before commencement of Act.

92.(1) It shall be the duty of a company within six months after the commencement of this Act to send to the Financial Supervision Commission for registration the prescribed particulars of -

- (a) any charge created by the company before the date of the commencement of this Act and remaining unsatisfied at that date, which would have been required to be registered under the provisions of paragraphs (g), (h) and (i) of subsection (2) of section seventy-nine of

this Act or under the provisions of section ninety-one of this Act, if the charge had been created after the commencement of this Act; and

- (b) any charge to which any property acquired by the company before the commencement of this Act is subject and which would have been required to be registered under the provisions of section eighty-one of this Act or under the provisions of section ninety-one of this Act, if the property had been acquired after the commencement of this Act.

(2) The Financial Supervision Commission, on payment of the fee prescribed under section 283A, shall enter the said particulars on the register kept by it in pursuance of this Part of this Act.

(3) If a company fails to comply with this section, the company and every director, manager, secretary or other officer of the company, or other person who is knowingly a party to the default shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Provided that the failure of the company shall not prejudice any rights which any person in whose favour the charge was made may have thereunder.

(4) For the purposes of this section the expression “company” includes a company (whether a company within the meaning of this Act or not) incorporated outside the Isle of Man which has an established place of business in the Isle of Man.

PART IV - MANAGEMENT AND ADMINISTRATION

Registered Office and Name.

93. [Repealed]

Publication of name by company.

94.(1) Every company –

- (a) shall display or cause its name to be displayed prominently, in legible characters, at its registered office and at every office or place in which its business is carried on, conducted or administered and to which the public has access;
- (b) shall, if it has a common seal, have its name engraved in legible characters upon it; and
- (c) shall have its name mentioned in legible characters on all official documents, to be signed by or on behalf of the company.

(2) In the case of a company administered by the holder of a licence under the Corporate Service Providers Act 2000, subsection (1)(a), so far as it concerns the display of a name at a registered office, shall be deemed satisfied by the prominent display of a notice at the address at which that company maintains its registered office and is administered, stating that members of the public are invited to inspect during business hours a list of companies having their registered offices at such address.

(3) If a company does not comply with the provisions of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding £5,000.

Particulars to be included in business letters, etc.

94A.(1) Every company shall have the following particulars duly identified and mentioned in legible characters in all official documents, including communications sent electronically, on or in which the company's name appears and which are issued or sent by the company to any person in the Isle of Man or elsewhere -

- (a) the place of registration of the company, and the number with which it is registered;
- (b) the address of its registered office; and
- (c) in the case of a limited company exempt from the obligation to use the word "limited" as part of its name, the fact that it is a limited company;

and, if in the case of a company having a share capital there is on the stationery used for such letters or on the order forms a reference to the amount of the share capital, the reference shall be to paid-up share capital.

(2) If a company fails to comply with subsection (1), the company shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000; and if an officer of a company or any person on its behalf issues or authorises the issue of any business letter or order form not complying with subsection (1), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Restrictions on Commencement of Business.

Restrictions on commencement of business.

95.(1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless -

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription.
- (c) *[Repealed]*

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers, unless -

- (a) *Repealed*
- (b) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash.

(c) [Repealed]

(3) [Repealed]

(4) Nothing in this section affects the validity of any transaction entered into by the company; but, if a company enters into a transaction in contravention of this section and fails to comply with its obligations in that connection within 21 days from being called upon to do so, the directors of the company are jointly and severally liable to indemnify the other party to the transaction in respect of any loss or damage suffered by him by reason of the company's failure to comply with those obligations.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

(7) Nothing in this section shall apply to -

(a) a private company; or

(b) a company registered before the first day of January, nineteen hundred and nine.

Register of Members.

Register of members.

96.(1) Every company shall keep a register of its members, and enter therein the following particulars -

(a) The full names and addresses of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(b) The date at which each person was entered in the register as a member;

(c) The date at which any person ceased to be a member:

Provided that where the company has converted any of its shares into stock and given notice of the conversion to the Financial Supervision Commission, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this subsection.

(1A) A company's register of members shall be kept at its registered office, except that -

(a) if the work of making it up is done at another office of the company, it may be kept there; and

- (b) if the company arranges with some other person for the making up of the register to be undertaken on its behalf by that other, it may be kept at the office of the other at which the work is done,

but it must be kept at some place in the Isle of Man.

(1B) If the register of members of a company is kept at a place other than at its registered office, it shall forthwith deliver to the Financial Supervision Commission a notice in the prescribed form of the place where the register is kept, and of any change in that place.

(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 a default fine.

Statement that company has only one member.

96A.(1) If the number of members of a private company limited by shares or by guarantee falls to one there shall upon the occurrence of that event be entered in the company's register of members with the name and address of the sole member -

- (i) a statement that the company has only one member; and
- (ii) the date on which the company became a company having only one member.

(2) If the membership of a private company limited by shares or by guarantee increases from one to two or more members there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the person who was formerly the sole member, a statement that the company has ceased to have only one member together with the date on which that event occurred.

(3) If a company makes default in complying with this section, the company and every officer of it who is in default is liable to a default fine and, for continued contravention, to a daily fine of £200.

Index of members of company.

97.(1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(2A) The index shall be at all times kept at the same place as the register of members.

(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.

Provision as to entries in register in relation to share warrants.

98.(1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely -

- (a) The fact of the issue of a warrant;
- (b) A statement of the shares included in the warrant, distinguishing each share by its number; and
- (c) The date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in subsection (1) of this section shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.

(5) Subject to the provisions of this Act, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles.

Inspection of register of members.

99.(1) The register of members, commencing from the date of the registration of the company, and the index of the names of members, shall be kept at the registered office of the company, and, except when the register is closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member and of any other person on payment of such reasonable sum as the company may prescribe for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of such reasonable sum as the company may prescribe.

The company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding £5,000.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

Non-compliance with ss.96, 97, 99: agent's default.

99A. Where under section 96(1A)(b), the register of members is kept at the office of some person other than the company, and by reason of any default of his the company fails to comply with section 96(1B), 97(2A) or 99, or with any requirement of this Act as to the production of the register, that other person is liable to the same penalties as if he were an officer of the company who was in default, and the powers of the court under section 99(4) extends to the making of orders against that other and his officers and servants.

Power to close register.

100. A company may, on giving notice by advertisement in not less than two newspapers circulating in the Isle of Man, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Power of court to rectify register.

101.(1) If -

- (a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or
- (b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member;

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the Financial Supervision Commission, the court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Financial Supervision Commission.

Trusts not to be entered on register.

102. No notice of any trust, expressed, implied, or constructive, shall be entered on the register, or be receivable by the Financial Supervision Commission.

Register to be evidence.

103. The register of members shall be *prima facie* evidence of any matters by this Act directed or authorised to be

inserted therein.

Branch Register.

Power for company to keep branch register.

104.(1) A company having a share capital may cause to be kept in any prescribed country or territory in which it transacts business a branch register of members resident there (in this Act called “the branch register”).

(2) The company shall give to the Financial Supervision Commission notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be given within fourteen days of the opening of the office or of the change or discontinuance, as the case may be.

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

(4) References to a colonial register or dominion register occurring in any articles registered before the commencement of paragraph 9 of Schedule 2 to the Companies Act 1992 shall be construed as references to a branch register.

Regulations as to branch register.

105.(1) A branch register shall be deemed to be part of the company’s register of members in this and the next following section called “the principal register”).

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district where the branch register is kept.

(3) The company shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register.

Every such duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(5) A company may discontinue to keep a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company in the same country or territory, or to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.

(7) If default is made in complying with subsection (3) of this section, the company and every officer of the

company who is in default shall be liable to a default fine.

Provisions as to branch registers of overseas companies kept in the Isle of Man.

106.(1) If by virtue of the law in force in any country or territory outside the Isle of Man companies incorporated under that law have power to keep in the Isle of Man branch registers of their members resident in the Isle of Man, the Treasury may by Order direct that sections ninety-nine and one hundred and one of this Act shall, subject to any modifications and adaptations specified in the Order, apply to and in relation to any such branch registers kept in the Isle of Man as they apply to and in relation to the registers of companies within the meaning of this Act.

(2) [Repealed]

Annual Return.

Annual return to be made by company having a share capital.

107.(1) The annual return of a company having a share capital shall contain a list of all persons who, at the date of the return, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company.

(2) The list must state the names, addresses, of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or, in the case of the first return, of the incorporation of the company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers, and, if the names therein are not arranged in alphabetical order, must have annexed it to an index sufficient to enable the name of any person in the list to be readily found:

Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Financial Supervision Commission, the list must state the amount of stock held by each of the existing members instead of the amount of shares and the particulars relating to shares hereinbefore required.

(3) The return must also state -

- (a)* the address of the registered office;
- (b)* the amount of the share capital of the company and the number of the shares into which it is divided;
- (c)* all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is the secretary of the company as are required by this Act to be contained with respect to the directors and the secretary respectively in the register of the directors and the secretary of a company;
- (d)* the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Financial Supervision Commission under this Act, or which would have been required so to be registered if created after the 1st January 1909;
- (e)* such other particulars as may be prescribed.

- (4) The return shall be in the prescribed form.
- (5) In the case of a company keeping a branch register, the particulars of the entries in that register shall, so far as they relate to matters which are required to be stated in the return, be included in the return made next after copies of those entries are received at the registered office of the company.
- (6) This section shall not apply to a company limited by guarantee and having a share capital.

Annual return to be made by company not having share capital and company limited by guarantee and having a share capital.

108.(1) Every company not having a share capital and any company limited by guarantee and having a share capital, shall make a return in the prescribed form stating -

- (a) the address of the registered office of the company;
- (b) all such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Act required to be contained with respect to directors in the register of directors of a company;
- (c) such other particulars as may be prescribed.

(2) There shall be included in the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Financial Supervision Commission under this Act or which would have been required to be registered if created after the first day of January, nineteen hundred and nine.

General provisions as to annual returns.

109.(1) The annual return must be contained in a separate part of the register of members, and must be made up to the company's return date, and the company must, within one month after that date, forward to the Financial Supervision Commission a copy signed by a director or by the manager or by the secretary of the company.

(1A) In subsection (1) of this section, "the company's return date" means -

- (a) the anniversary of the company's incorporation, or
- (b) if the company's last return delivered in accordance with this section was made up to a different date, the anniversary of that date.

(2) Section ninety-nine of this Act shall apply to the annual return as it applies to the register of members.

(3) Except where the company is a private company (which is not a subsidiary of a company liable to comply with this subsection), the annual return shall include a written copy, certified by a director or the manager or secretary of the company to be a true copy, of the last balance sheet which has been audited by the company's auditors, including every document required by law to be annexed thereto, together with a copy of the report of the auditors thereon certified as aforesaid, and if any such balance sheet is in a foreign language there shall also be annexed to it a translation thereof in English, certified in the prescribed manner to be a correct translation:

Provided that, if the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there shall be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended shall be stated thereon.

(3A) Notwithstanding that it is not a public company, and subject to subsection (3B), subsection (3) shall apply to a company if it has acted as a stake-holder (within the meaning given in section 20 of the Timeshare Act 1996) at any time since -

- (a) the last annual return date of the company; or
- (b) if the company has not previously delivered a return to the Financial Supervision Commission, since the date of incorporation.

(3B) Subsection (3A) shall not apply to a company limited by shares which -

- (a) has issued shares fully paid up in cash of a nominal value of at least £250,000 or such other amount as may be prescribed; and
- (b) holds indemnity insurance, for such sum as may be prescribed, in respect of its liability to any action, suit or proceedings for, or in respect of, any act or matter done or omitted to be done in the exercise, or purported exercise, of its functions as a stake-holder.

(4) If a company fails to comply with this section or either of the two last foregoing sections of this Act, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of subsection (4) of this section the expression “officer” and for the purposes of the last two foregoing sections of this Act the expression “director”, shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Certificates to be sent by private company with annual return.

110. A private company shall send with the annual return required by section one hundred and eight of this Act a certificate signed by a director or the secretary of the company that the company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company.

Meetings and Proceedings.

Annual general meeting.

111.(1) A general meeting of every company shall be held once at the least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting:

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the calendar year of its incorporation or in the following calendar year.

(2) If default is made in holding a meeting of the company in accordance with the provisions of this section, the company, and every director or manager of the company who is knowingly a party to the default shall be liable to a

fine not exceeding £5,000.

(3) If default is made as aforesaid, the court may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company.

112. [Repealed]

Convening of extraordinary general meeting on requisition.

113.(1) The directors of a company, notwithstanding anything in its articles, shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not within twenty-one days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section one hundred and sixteen of this Act.

Provisions as to meetings and votes.

114.(1) The following provisions shall have effect in so far as the articles of the company do not make other provisions in that behalf -

- (a) a meeting of the company, other than a meeting for the passing of a special resolution, may be called by 14 days' notice in writing;
- (b) notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A, and for the purpose of

this paragraph the expression "Table A" means that Table as for the time being in force;

- (c) two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per cent in number of the members of the company may call a meeting;
- (d) two members personally present shall be a quorum;
- (e) any member elected by the members present at a meeting may be a chairman thereof;
- (f) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each ten pounds of stock held by him, and in any other case every member shall have one vote.

(2) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Act, the court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

Quorum at meetings of the sole member.

114A. Notwithstanding any provision to the contrary in this Act or in the articles of a private company limited by shares or by guarantee having only one member, one member present in person or by proxy shall be a quorum.

Representation of companies at meetings of other companies and of creditors.

115.(1) A corporation, whether a company within the meaning of this Act or not, may -

- (a) if it is a member of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representatives at any meeting of the company or at any meeting of any class of members of the company;
- (b) if it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor, or holder of debentures, of that other company.

Provisions as to extraordinary and special resolutions.

116.(1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given:

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll shall be to be effectively demanded, if demanded -

(a) by such number of members for the time being entitled under the articles to vote at the meeting as may be specified in the articles, so, however, that it shall not in any case be necessary for more than five members to make the demand; or

(b) if no provision is made by the articles with respect to the right to demand the poll, by three members so entitled or by one member or two members so entitled, if that member holds or those two members together hold not less than fifteen per cent of the paid-up share capital of the company.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by virtue of this Act or of the articles of the company.

(6) For the purposes of this section notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Act or the articles.

Registration and copies of certain resolutions and agreements.

117.(1) A printed copy of every resolution or agreement to which this section applies shall, within one month after the passing or making thereof, be forwarded to the Financial Supervision Commission and recorded by it.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request, on payment of 5p or such less sum as the company may direct.

(4) This section shall apply to -

- (a) Special resolutions;
- (b) Extraordinary resolutions;
- (c) Resolutions or agreements which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions;
- (d) Resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;
- (e) Resolutions requiring a company to be wound up voluntarily, passed under paragraph (a) of subsection (1) of section two hundred and fourteen of this Act.

(5) If a company fails to comply with subsection (1) of this section, the company and every officer of the company who is in default shall be liable to a default fine of £500.

(6) If a company fails to comply with subsection (2) or subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding £500.

(7) For the purposes of the last two foregoing subsections a liquidator of the company shall be deemed to be an officer of the company.

Resolutions passed at adjourned meetings.

118. Where after the commencement of this Act a resolution is passed at an adjourned meeting of -

- (a) a company;
- (b) the holders of any class of shares in a company;
- (c) the directors of a company;

the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Written resolutions of private companies.

Written resolutions of private companies.

118A.(1) Anything which in the case of a private company may be done -

- (a) by resolution of the company in general meeting, or
- (b) by resolution of a meeting of any class of members of the company,

may be done, without a meeting and without any previous notice being required, by resolution in writing signed by or on behalf of all the members of the company who at the date of the resolution would be entitled to attend and vote at such meeting.

(2) The signatures need not be on a single document provided each is on a document which accurately states the terms of the resolution.

(3) The date of the resolution means the date on which the resolution is signed by or on behalf of the last member to sign.

(4) A resolution agreed to in accordance with this section has effect as if passed -

(a) by the company in general meeting, or

(b) by a meeting of the relevant class of members of the company,

as the case may be; and any reference in any enactment to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.

(5) Any reference in any enactment to the date of passing of a resolution is, in relation to a resolution agreed to in accordance with this section, a reference to the date of the resolution, unless section 118B(4) applies in which case it shall be construed as a reference to the date from which the resolution has effect.

(6) A resolution may be agreed to in accordance with this section which would otherwise be required to be passed as a special or extraordinary resolution; and any reference in any enactment to a special or extraordinary resolution includes such a resolution.

(7) This section has effect subject to the exceptions specified in Part I of Schedule 6A to this Act; and in relation to certain descriptions of resolution under this section the procedural requirements of this Act have effect with the adaptations specified in Part II of that Schedule.

Rights of auditors in relation to written resolution.

118B.(1) A copy of any written resolution proposed to be agreed to in accordance with section 118A shall be sent to the company's auditors unless the company is exempt from audit under regulations made pursuant to section 324B.

(2) If the resolution concerns the auditors as auditors, they may within 7 days from the day on which they receive the copy give notice to the company stating their opinion that the resolution should be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company.

(3) A written resolution shall not have effect unless -

(a) the auditors notify the company that in their opinion the resolution -

(i) does not concern them as auditors, or

(ii) does so concern them but need not be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company, or

(b) the period for giving a notice under subsection (2) expires without any notice having been

given in accordance with that subsection.

(4) A written resolution previously agreed to in accordance with section 118A shall not have effect until that notification is given or, as the case may be, that period expires.

Written resolutions: supplementary provisions.

118C.(1) Sections 118A and 118B have effect notwithstanding any provision of the company's memorandum or articles.

(2) Nothing in those sections affects any enactment or rule of law as to -

- (a) things done otherwise than by passing a resolution, or
- (b) cases in which a resolution is treated as having been passed, or a person is precluded from alleging that a resolution has not been duly passed.

Minutes of proceedings of meetings and directors.

119.(1) Every company shall cause minutes of all proceedings of general meetings, and where there are directors or managers, of all proceedings at meetings of its directors or of its managers, to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators shall be deemed to be valid.

Recording of written resolutions.

119A.(1) Where a written resolution is agreed to in accordance with section 118A which has effect as if agreed by the company in general meeting, the company shall cause a record of the resolution (and of the signatures) to be entered in a book in the same way as minutes of proceedings of general meeting of the company.

(2) Any such record, if purporting to be signed by a director of the company or by the company secretary, is evidence of the proceedings in agreeing to the resolution; and where a record is made in accordance with this section, then, until the contrary is proved, the requirements of this Act with respect to those proceedings shall be deemed to be complied with.

(3) Section 120 (inspection of minute books) applies in relation to a record made in accordance with this section as it applies in relation to the minutes of proceedings of any general meeting.

Recording of decisions by sole member.

119B.(1) Where a private company limited by shares or by guarantee has only one member and he takes any decision which may be taken by the company in general meeting and which has effect as if agreed by the company in general meeting, he shall (unless that decision is taken by way of a written resolution) provide the company with a written record of that decision.

(2) If the sole member fails to comply with subsection (1) he shall be liable to a fine not exceeding £1,000.

(3) Failure by the sole member to comply with subsection (1) shall not affect the validity of any decision referred to in that subsection.

Inspection of minute books.

120.(1) The books containing the minutes of proceedings of any general meeting of a company held after the commencement of this Act shall be kept at the registered office of the company, and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that no less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any such minutes as aforesaid at a charge not exceeding 3p for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding £5,000.

(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

Accounts and Audit.

121. [Repealed]

122. [Repealed]

123. [Repealed]

124. [Repealed]

125. [Repealed]

126. [Repealed]

Accounts to contain particulars as to loans to, and remuneration of directors, etc.

127.(1) The accounts which in pursuance of this Act are to be laid before every company in general meeting shall,

subject to the provisions of this section, contain particulars showing -

- (a) the amount of any loans which during the period to which the accounts relate have been made either by the company or by any other person under a guarantee from or on a security provided by the company, to any director or officer of the company, including any such loans which were repaid during the said period; and
- (b) the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof; and
- (c) the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the company or by or from any subsidiary company.

(2) The provisions of subsection (1) of this section with respect to loans shall not apply -

- (a) in the case of a company the ordinary business of which includes the lending of money, to a loan made by the company in the ordinary course of its business; or
- (b) to a loan made by the company to any employee of the company if the loan does not exceed two thousand pounds and is certified by the directors of the company to have been made in accordance with any practice adopted or about to be adopted by the company with respect to loans to its employees.

(3) The provisions of subsection (1) of this section with respect to the remuneration paid to directors shall not apply in relation to a managing director of the company, and in the case of any other director who holds any salaried employment or office in the company there shall not be required to be included in the said total amounts any sums paid to him except sums paid by way of directors' fees.

(4) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report on the balance sheet of the company, so far as they are reasonably able to do so, a statement giving the required particulars.

(5) In this section the expression "emoluments" includes fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

128. [Repealed]

129. [Repealed]

Certain companies to publish periodical statement.

130.(1) Every company, being an insurance company, provident, or benefit society, shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form set out in the Seventh Schedule to this Act, or as near thereto as circumstances admit.

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in

every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of such reasonable fee (if any) as the company may prescribe.

(4) If default is made in complying with this section, the company and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

(5) For the purposes of this Act a company which carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

131. [Repealed]

132. [Repealed]

133. [Repealed]

Inspection.

Investigation of affairs of company by inspectors appointed by court.

134.(1) The court may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the court direct -

(a) In the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued;

(b) In the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(c) In the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the court may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation, and the court may, before appointing an inspector, require the applicants to give security, to an amount not exceeding one hundred pounds, for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company, and of all officers and agents of any other body corporate whose affairs are investigated under section 6 of the Companies Act 1974 -

(a) to produce to the inspectors all books and documents of or relating to the company or, as the case may be, the other body corporate which are in their custody or power,

(b) to attend before the inspectors when required to do so, and

- (c) otherwise to give inspectors all assistance in connection with the investigation which they are reasonably able to give.

(4) If the inspectors consider that a person other than an officer or agent of the company or other body corporate is or may be in possession of information concerning its affairs, they may require that person to produce to them any books or documents in his custody or power relating to the company or other body corporate, to attend before them and otherwise to give them all assistance in connection with the investigation which he is reasonably able to give; and it is that person's duty to comply with the requirement.

(4A) An inspector may examine on oath the officers and agents of the company or other body corporate, and any such person as is mentioned in subsection (4) above, in relation to the affairs of the company or other body, and may administer an oath accordingly.

(5) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, the inspectors may certify the refusal under their hand to the court, and the court may thereupon enquire into the case, and after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the court, and a copy of the report shall be forwarded by the court to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

The report shall be written or printed, as the court direct.

Proceedings on report by inspectors.

135.(1) If from any report made under the last foregoing section it appears to the court that any person has been guilty of any offence in relation to the company for which he is criminally liable, and if it appears to the court that the case is one in which the prosecution ought to be undertaken by the Attorney-General, the court shall refer the matter to him.

(2) If where any matter is referred to the Attorney-General under this section he considers that the case is one in which a prosecution ought to be instituted and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings, and it shall be the duty of all officers and agents of the company, past and present (other than the defendant in the proceedings), to give to him all assistance in connection with the prosecution which they are reasonably able to give.

(3) The expenses of and incidental to an investigation under the last preceding section of this Act (in this subsection referred to as "the expenses") shall be defrayed as follows -

- (a) Where as a result of the investigation a prosecution is instituted by the Attorney-General, the expenses shall be defrayed by the Treasury,
- (b) In any other case the expenses shall be defrayed by the company unless the court think proper to direct, as the court is hereby authorised to do, that they shall either be paid by the applicants or in part by the company and in part by the applicants:

Provided that -

- (i) if the company fails to pay the whole or any part of the sum which it is liable to pay under this subsection, the applicants shall make good the deficiency up to the amount by which the security given by them under this section exceeds the amount, if any, which they have under this subsection been directed by the court to pay; and
- (ii) any balance of the expenses not defrayed either by the company or the applicants shall be defrayed by the Treasury.

Power of company to appoint inspectors.

136.(1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the court, except that, instead of reporting to the court, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, he shall be liable to be proceeded against in the same manner as if the inspectors had been inspectors appointed by the court.

Report of inspectors to be evidence.

137. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Directors and Managers.

138. [Repealed]

139. [Repealed]

Qualification of director or manager.

140.(1) It shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the

expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding £5,000.

Provisions as to undischarged bankrupts acting as directors.

141.(1) If any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of any company except with the leave of the court by which he was adjudged bankrupt, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000,

or to both such imprisonment and fine:

Provided that a person shall not be guilty of an offence under this section by reason that he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of a company, if he was at the commencement of this Act acting as director of, or taking part or being concerned in the management of, that company and has continuously so acted, taken part, or been concerned since that date and the bankruptcy was prior to that date.

(2) The leave of the court for the purposes of this section shall not be given unless notice of intention to apply therefor has been served on the trustee in his bankruptcy, and it shall be the duty of the trustee, if he is of the opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

(3) In this section the expression "company" includes an unregistered company and a company incorporated outside the Isle of Man which has an established place of business within the Isle of Man.

(4) For the purposes of this section a person shall be treated as bankrupt if -

(a) he has been adjudged bankrupt by any court in the Island, or in England, Wales or Northern Ireland, or

(b) sequestration of his estate has been awarded by a court in Scotland, or

(c) a court in the Republic of Ireland or any of the Channel Islands has made an order in respect of that person having the like effect as an adjudication of bankruptcy in the High Court.

Resolution to remove director.

141A.(1) A company may by special resolution remove a director before the expiration of his period of office,

notwithstanding anything in its articles or in any agreement between it and him.

(2) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

(3) A person appointed director in place of a person removed under this section is treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(4) This section is not to be taken as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director, or as derogating from any power to remove a director which may exist apart from this section.

Director's right to protest removal.

141B.(1) On receipt of notice of an intended resolution to remove a director under section 141A, the company shall forthwith send a copy of the notice to the director concerned; and he (whether or not a member of the company) is entitled to be heard on the resolution at the meeting.

(2) Where notice is given of an intended resolution to remove a director under that section, and the director concerned makes with respect to its representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so -

(a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company).

(3) If a copy of the representations is not sent as required by subsection (2) because it is received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.

(4) But copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.

(5) The court may order the company's costs on an application under this section to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

Validity of acts of directors.

142. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

Register of directors.

143.(1) Every company shall keep at its registered office a register of directors and secretaries containing with respect to each of them the following particulars, that is to say -

- (a) in the case of an individual, his present christian name and surname, any former christian name or surname, his usual residential address, his nationality, and, if that nationality is not the nationality of origin, his nationality of origin, and his business occupation, if any, or, if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; and
- (b) in the case of a corporation, its corporate name and registered or principal office.

(2) The company shall within the period of one month from the occurrence of -

- (a) any change among its directors or in its secretary, or
- (b) any change in the particulars contained in the register,

send to the Financial Supervision Commission a notification in the prescribed form of the change and of the date on which it occurred; and any notification of a person having become a director or secretary of one of joint secretaries of the company shall contain a consent signed by that person to act in the relevant capacity.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of such reasonable fee (if any) as the company may prescribe.

(4) If any inspection required under this section is refused or if default is made in complying with subsection (1) or subsection (2) of this section, the company and every officer of the company who is in default shall be liable to a default fine.

(5) In the case of any such refusal, the court may by order compel an immediate inspection of the register.

(6) In this section -

- (a) a person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company; and
- (b) paragraphs (b), (d) and (e) of section 144(4) of this Act shall apply as they apply for the purposes of that section.

Particulars with respect to directors in official documents.

144.(1) Every company registered under this Act or the Acts repealed by this Act shall, in all official documents, including communications sent electronically, on or in which the company's name appears and which are issued or sent by the company to any person in the Isle of Man or elsewhere, identify and state in legible characters with respect to every director, the following particulars -

- (a) his present first names, or the initials thereof, and present surname;
- (b) any former first names and surnames:

Provided that, if special circumstances exist which render it in the opinion of the Financial Supervision Commission expedient that such an exemption should be granted, the Financial Supervision Commission may by notice grant, subject to such conditions as may be specified in the notice, exemption from the obligations imposed by this subsection.

(2) Sections 26 and 28 of the Interpretation Act 1976 shall apply to subsection (1).

(3) If a company makes default in complying with this section, every director of the company shall be liable on summary conviction for each offence to a fine not exceeding £1,000, and, in the case of a director being a corporation, every director, secretary and officer of the corporation, who is knowingly a party to the default shall be liable to a like penalty.

(4) For the purposes of this section -

- (a) the expression 'director' includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;
- (b) the expression 'initials' includes a recognized abbreviation of a first name;
- (c) in the case of a peer or person usually known by a title different from his surname, the expression 'surname' means that title;
- (d) references to former first names or surname do not include -
 - (i) in the case of a peer or a person usually known by a British title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or
 - (ii) in the case of natural born British subjects, a former first name or surname where that name or surname was changed or disused before the person bearing the name attained the age of eighteen years; or
 - (iii) in the case of a married woman, the name or surname by which she was known previous to the marriage.

Limited company may have directors with unlimited liability.

145.(1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company, if any, and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary, if any, of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he shall be liable to -

- (a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000,

and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

Special resolution of limited company making liability of directors unlimited.

146.(1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

Statement as to remuneration of directors to be furnished to shareholders.

147.(1) Subject as hereinafter provided, the directors of a company shall, on a demand in that behalf made to them in writing by members of the company entitled to not less than one-fourth of the aggregate number of votes to which all the members of the company are together entitled, furnish to all the members of the company within a period of one month from the receipt of the demand a statement certified as correct, or with such qualifications as may be necessary, by the auditors of the company, showing as respects each of the last three preceding years in respect of which the accounts of the company have been made up the aggregate amount received in that year by way of remuneration or other emoluments by persons being directors of the company, whether as such directors or otherwise in connection with the management of the affairs of the company, and there shall, in respect of any such director who is -

- (a) a director of any other company which is in relation to the first-mentioned company a subsidiary company; or
- (b) by virtue of the nomination, whether direct or indirect, of the company a director of any other company;

be included in the said aggregate amount any remuneration or other emoluments received by him for his own use whether as a director of, or otherwise in connection with the management of the affairs of, that other company:

Provided that -

- (i) a demand for a statement under this section shall be of no effect if the company within one month after the date on which the demand is made resolve that the statement shall not be furnished; and
- (ii) it shall be sufficient to state the total aggregate of all sums paid to or other emoluments received by all the directors in each year without specifying the amount received by any individual.

(2) In computing for the purpose of this section the amount of any remuneration or emoluments received by any director, the amount actually received by him shall, if the company has paid on his behalf any sum by way of income tax in respect of the remuneration or emoluments, be increased by the amount of the sum so paid.

(3) If any director fails to comply with the requirements of this section, he shall be liable to a fine not exceeding £5,000.

(4) In this section the expression “emoluments” includes fees, percentages, and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

Disclosure by directors of interest in contracts.

148.(1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purpose of this section, a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(4) Any director who fails to comply with the provisions of this section shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

Contracts with sole members who are directors.

148A.(1) Subject to subsection (2), where a private company limited by shares or by guarantee having only one member enters into a contract with the sole member of the company and the sole member is also a director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract are either set out in a written memorandum or are recorded in the minutes of the first meeting of the directors of the company following the making of the contract.

(2) Subsection (1) shall not apply to contracts entered into in the ordinary course of the company’s business.

(3) For the purposes of this section, if the directors of a company are accustomed to act in accordance with the directions of a sole member (other than by reason only that the directors act on advice given by him in a professional capacity) that member is to be treated as a director.

(4) If a company makes default in complying with subsection (1), the company and every officer of it who is in default is liable to a default fine.

(5) Subject to subsection (6), nothing in this section shall be construed as excluding the operation of any other

enactment or rule of law applying to contracts between a company and a director of that company.

(6) Failure to comply with subsection (1) with respect to a contract shall not affect the validity of that contract.

Provision as to payments received by directors for loss of office or on retirement.

149.(1) It is hereby declared that it is not lawful in connection with, the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment, including the amount thereof, have been disclosed to the members of the company and the proposal approved by the company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company the amount received shall be deemed to have been received by him in trust for the company.

(3) Where a payment is to be made as aforesaid to a director of a company in connection with the transfer to any persons, as a result of an offer made to the general body of shareholders, of all or any of the shares in the company, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment, including the amount thereof, shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(4) If any such director fails to take reasonable steps as aforesaid, or if any person who has been properly required by any such director to include the said particulars in or send them with any such notice fails so to do, he shall be liable to a fine not exceeding £5,000, and if the requirements of the last foregoing subsection are not complied with in relation to any such payment as is mentioned in the said subsection, any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made.

(5) If in connection with any such transfer as aforesaid the price to be paid to a director of the company whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares or any valuable consideration is given to any such director, the excess or the money value of the consideration, as the case may be, shall, for the purposes of this section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connection with his retirement from office.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are mentioned in this section or with respect to any other like payments made or to be made to the directors of a company.

Provisions as to assignment of office by directors.

150. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

Provisions as to liability of officers and auditors.

151. Subject as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company, or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void:

Provided that -

- (a) nothing in this section shall prevent a company from purchasing and maintaining for any such director, manager, officer or auditor insurance against any such liability; and
- (b) *[Repealed]*
- (c) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 337 of this Act in which relief is granted to him by the court.

Arrangements and Reconstructions.

Power to compromise with creditors and members.

152.(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.

(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 subsection (2) of this section shall have no effect until an office copy of the order has been delivered to the Financial Supervision Commission for registration, 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.

(4) If a company makes default in complying with subsection (3) of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding £500.

(5) In this section the expression “company” means any company liable to be wound up under this Act, and the expression “arrangement” includes a re-organisation 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.

Provisions for facilitating reconstruction and amalgamation of companies.

153.(1) Where an application is made to the court under the last foregoing section of this Act for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as “a transferor company”) is to be transferred to another company (in this section referred to as “the transferee company”), the court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters -

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;
- (d) the dissolution, without winding-up, of any transferor company;
- (e) the provision to be made for any persons, who within such time and in such manner as the court direct, dissent from the compromise or the arrangement;
- (f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause an office copy thereof to be delivered to the Financial Supervision Commission for registration within seven days after the making of the order, and if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

(4) In this section the expression “property” includes property, rights and powers of every description, and the expression “liabilities” includes duties.

(5) Notwithstanding the provisions of subsection (5) of the last foregoing section, the expression “company” in this section does not include any company other than a company within the meaning of this Act.

Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

154.(1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as “the transferor company”) to another company, whether a company within the meaning of this

Act or not (in this section referred to as “the transferee company”) has within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine-tenths in value of the shares affected, the transferee company, may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholder are to be transferred to the transferee company:

Provided that, where any such scheme or contract has been so approved at any time before the commencement of this Act, the court may by order, on an application made to it by the transferee company within two months after the commencement of this Act, authorise notice to be given under this section at any time within fourteen days after the making of the order, and this section shall apply accordingly, except that the terms on which the shares of the dissenting shareholder are to be acquired shall be such terms as the court may by the order direct instead of the terms provided by the scheme or contract.

(2) Where a notice has been given by the transferee company under this section and the court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression “dissenting shareholder” includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

Takeovers and mergers

Regulations concerning takeovers and mergers

154A.(1) The Financial Supervision Commission may by regulations make provision -

- (a) for or in connection with the regulation of –
 - (i) takeover bids;
 - (ii) merger transactions; and
 - (iii) transactions (not falling within sub-paragraph (i) or (ii)) that have or may have, directly or indirectly, an effect on the ownership or control of companies;
- (b) for or in connection with the regulation of things done in consequence of, or otherwise

in relation to, any such bid or transaction;

(c) about cases where -

- (i) any such bid or transaction is, or has been, contemplated or apprehended; or
- (ii) an announcement is made denying that any such bid or transaction is intended.

(2) Regulations under subsection (1) shall not come into operation unless they are approved by Tynwald.

PART V - WINDING UP

(i) PRELIMINARY

Modes of Winding Up.

Modes of winding up.

155.(1) The winding up of a company may be either -

- (a) by the court; or
- (b) voluntary; or
- (c) subject to the supervision of the court.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

Contributories.

Liability as contributories of present and past members.

156.(1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of subsection (2) of this section and the following qualifications -

- (a) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;
- (b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
- (c) a past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

- (d) in the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (e) in the case of a company limited by guarantee, no contribution shall, subject to the provisions of subsection (3) of this section, be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;
- (f) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or the contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;
- (g) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a limited company, any director or manager, whether past or present, whose liability is, under the provisions of this Act, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

Provided that -

- (a) a past director or manager shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;
- (b) a past director or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;
- (c) subject to the articles of the company, a director or manager shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

(3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

Definition of contributory.

157. The term “contributory” means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Nature of liability of contributory.

158. The liability of a contributory shall create a debt of the nature of a specialty accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

Contributories in case of death of member.

159.(1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives shall be liable in a due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

(2) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereof of the money due.

Contributories in case of bankruptcy of member.

160. If a contributory becomes bankrupt either before or after he has been placed on the list of contributories -

(1) his trustee in bankruptcy shall represent him for all the purposes of the winding-up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and

(2) there may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

Provision as to married women.

161.(1) The husband of a female contributory married before the date of the commencement of the Married Women's Property, Dower and Widowright Act 1921, shall, during the continuance of the marriage, be liable, as respects any liability attaching to any shares acquired by her before that date, to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be a contributory accordingly.

(2) Subject as aforesaid, nothing in this Act shall affect the provisions of the Married Women's Property, Dower and Widowright Act 1921.

(ii) WINDING UP BY THE COURT

Cases in which Company may be wound up by court.

Circumstances in which company may be wound up by court.

162. A company may be wound up by the court if -

- (1) the company has by special resolution resolved that the company be wound up by the court;
- (2) being a public company which was registered as such on its original incorporation, has not complied with the conditions for the commencement of business required by subsection (1)(a) and (b) of section 95 of this Act or, as the case may be, subsection (2)(b) of that section;
- (3) the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;
- (4) except in the case of a private company limited by shares or by guarantee, the number of members is reduced below two;
- (5) the company is unable to pay its debts;
- (6) the court is of opinion that it is just and equitable that the company should be wound up.

Definition of inability to pay debts.

163.(1) A company shall be deemed to be unable to pay its debts-

- (1) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (2) if execution or other process issued on a judgment decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part; or
- (3) if it proved to the satisfaction of the court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

(2) The Treasury may by order increase the sum referred to in paragraph (1) of subsection (1) above.

(3) An order made under subsection (2) above shall not come into operation until it has been approved by Tynwald.

Petition for Winding Up and Effects thereof.

Provisions as to applications for winding up.

164.(1) An application to the court for the winding up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by the Treasury, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by 10 or more policyholders in the case of an insurance company, or by all of any of those parties, together or separately:

Provided that -

- (a) A contributory shall not be entitled to present a winding-up petition unless -
 - (i) either the number of members is reduced below two; or
 - (ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him and registered in his name for at least six months during the eighteen months before the commencement of the winding-up, or have devolved on him through the death of a former holder; and
- (b) If the ground of the petition is that in section 162(2) of this Act, a winding-up petition may be presented by the Treasury; and
- (c) The court shall not give a hearing to a winding-up petition presented by a contingent or prospective creditor until security for costs has been given as the court thinks reasonable and until a *prima facie* case for winding-up has been established to the satisfaction of the court.
- (d) If it appears to the Financial Supervision Commission from any information or document in its possession that it is expedient in the public interest that a company should be wound up, it may, unless the body is already being wound up by the court, present a petition for it to be so wound up if the court thinks it proper for it to be so wound up.

(2) Where a company is being wound-up voluntarily or subject to supervision a winding-up petition may be presented by the official receiver attached to the court as well as by any other person authorised in that behalf under the other provisions of this section, but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

(3) [Repealed]

Powers of court on hearing petition.

165.(1) On hearing a winding-up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the court shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) [Repealed]

Power to stay or restrain proceedings against company.

166. At any time after the presentation of a winding-up petition, and before a winding-up order has been made, the company or any creditor or contributory may -

- (a) where any action or proceeding against the company is pending in the High Court, apply to the court in which the action or proceeding is pending for a stay of proceedings therein; and

- (b) where any other action or proceeding is pending against the company, apply to the court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding;

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

Avoidance of dispositions of property, etc., after commencement of winding up.

167. In a winding up by the court, and disposition of the property of the company including things in action, and any transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding up, shall unless the court otherwise orders, be void.

Avoidance of attachments, etc.

168. Where any company is being wound up by the court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

Commencement of Winding Up.

Commencement of winding up by the court.

169.(1) Where before the presentation of a petition for the winding up of a company by the court a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Consequences of Winding-up Order.

Copy of order to be forwarded to Financial Supervision Commission.

170. On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company, or otherwise as may be prescribed, to the Financial Supervision Commission who shall make a minute thereof in its books relating to the company.

Actions stayed on winding-up order.

171. When a winding-up order has been made, or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to

such terms as the court may impose.

Effect of winding-up order.

172. An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Official Receiver in Winding Up.

Official receiver appointed by Treasury.

173.(1) For the purposes of this Act so far as it relates to the winding up of companies by the court, the term “official receiver” means the official receiver, if any, appointed by the Treasury.

(2) Any such officer shall for the purpose of his duties under this Act be styled “the official receiver”.

Appointment of official receiver by court in certain cases.

174. If in the case of the winding up of any company by the court it appears to the court desirable, with a view to securing the more convenient and economical conduct of the winding up, that some officer, other than the person who would by virtue of the last foregoing section of this Act be the official receiver, should be the official receiver for the purposes of that winding up, the court may appoint that other officer to act as official receiver in that winding up, and the person so appointed shall be deemed to be the official receiver in that winding up for all the purposes of this Act.

Statement of company’s affairs to be submitted to official receiver.

175.(1) Where the court has made a winding-up order or appointed a provisional liquidator, there shall, unless the court thinks fit to order otherwise and so orders, be made out and submitted to the official receiver a statement as to the affairs of the company in the prescribed form verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, and occupations of the creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary or other chief officer of the company, or by such of the persons hereinafter in this subsection mentioned as the official receiver, subject to the direction of the court, may require to submit and verify the statement, that is to say, persons -

- (a)* who are or have been directors or officers of the company;
- (b)* who have taken part in the formation of the company at any time within one year before the relevant date;
- (c)* who are in the employment of the company or have been in the employment of the company within the said year and are in the opinion of the official receiver capable of

giving the information required;

- (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within fourteen days from the relevant date, or within such extended time as the official receiver or the court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official receiver or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official receiver may consider reasonable, subject to an appeal to the court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the fee prescribed under the Fees and Duties Act 1989, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.

(8) In this section the expression "the relevant date" means in a case where a provisional liquidator is appointed, the date of his appointment, and in a case where no such appointment is made, the date of the winding up order.

Report by official receiver.

176.(1) In a case where a winding-up order is made, the official receiver shall, as soon as practicable after receipt of the statement to be submitted under the last foregoing section, or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the court -

- (a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and
- (b) if the company has failed, as to the causes of the failure; and
- (c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.

(2) The official receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

(3) If the official receiver states in any such further report as aforesaid that in his opinion a fraud has been

committed as aforesaid, the court shall have the further powers provided in sections two hundred and seven and two hundred and eight of this Act.

Liquidators.

Power of court to appoint liquidators.

177. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

Appointment and powers of provisional liquidator.

178.(1) Subject to the provisions of this section, the court may appoint a liquidator provisionally at any time after the presentation of the winding up petition.

(2) The appointment of a provisional liquidator may be made at any time before the making of a winding up order and either the official receiver or any other fit person may be appointed.

(3) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

Appointment, style, etc., of liquidators in winding-up.

179. The following provisions with respect to liquidators shall have effect on a winding-up order being made -

- (1)** The official receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such:
- (2)** The official receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the court for appointing a liquidator in the place of the official receiver:
- (3)** The court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the court shall decide the difference and make such order thereon as the court may think fit:
- (4)** In a case where a liquidator is not appointed by the court, the official receiver shall be the liquidator of the company:
- (5)** The official receiver shall by virtue of his office be the liquidator during any vacancy:
- (6)** A liquidator shall be described, where a person other than the official receiver is liquidator, by the style of "the liquidator", and, where the official receiver is liquidator, by the style of "the official receiver and liquidator", of the particular company in respect of which he is appointed, and not by his individual name.

Provisions where person other than official receiver is appointed liquidator.

180. Where in the winding up of a company by the court a person other than the official receiver is appointed liquidator, that person -

- (1) shall not be capable of acting as liquidator until he has notified his appointment to the Financial Supervision Commission and given security in the prescribed manner to the satisfaction of the court,
- (2) shall give the official receiver such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

General provisions as to liquidators.

181.(1) A liquidator appointed by the court may resign or, on cause shown, be removed by the court.

(2) Where a person other than the official receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct, and, if more such persons than one are appointed liquidators their remuneration shall be distributed among them in such proportions as the court directs.

(3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court.

(4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Act required or authorised to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section two hundred and sixty-two of this Act, the acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

Custody of company's property.

182.(1) Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled.

(2) In a winding up by the court, if and so long as there is no liquidator, all the property of the company shall be deemed to be in the custody of the court.

Vesting of property of company in liquidator.

183. Where a company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or

defend for the purpose of effectually winding up the company and recovering its property.

Powers of liquidator.

184.(1) The liquidator in a winding up by the court shall have power with the sanction either of the court or of the committee of inspection -

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company:
- (b) to carry on the business of the company, so far as may be necessary for the beneficial winding-up thereof:
- (c) to appoint an advocate or other law agent to assist him in the performance of his duties:
- (d) to pay any classes of creditors in full:
- (e) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable:
- (f) to compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The liquidator in a winding up by the court shall have power-

- (a) to sell the real or personal property, and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels:
- (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal:
- (c) to prove, rank, and claim in the bankruptcy, insolvency, or sequestration of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy, insolvency, or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors:
- (d) to draw, accept, make, and indorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or indorsed by or on behalf of the company in the course of its business:
- (e) to raise on the security of the assets of the company any money requisite:

- (f) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself:
- (g) to appoint an agent to do any business which the liquidator is unable to do himself:
- (h) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section, shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

Exercise and control of liquidator's powers.

185.(1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks fit.

Books to be kept by liquidator.

186. Every liquidator of a company which is being wound up by the court shall keep, in manner prescribed and until there is a prescribed form in some convenient form, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

Payments by liquidator into court, etc.

187.(1) Every liquidator of a company which is being wound up by the court shall, in such manner and at such times as the court direct, pay the money received by him into court:

Provided that, if the committee of inspection satisfy the court that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the court shall, on the application of the committee of inspection, authorise the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the court in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the court, he shall pay interest on the amount so retained in excess at the rate of twenty per cent per annum, and shall be liable to disallowance of all or such part of his remuneration as the court may think just, and to be removed from his office by the court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the court shall not pay any sums received by him as liquidator into his private banking account.

Audit of liquidator's accounts in winding-up.

188.(1) Every liquidator of a company which is being wound up by the court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Rolls Office, or as the court shall direct, an account of his receipts and payments as liquidator.

(2) The account shall be in a prescribed form or until a form is prescribed in a convenient form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The court may cause the account to be audited and whether or not the court decides to cause an account to be audited, the liquidator shall furnish the court with such vouchers and information as the court may require, and the court may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited (or, as the case may be, forthwith if the court decides not to have an audit) a copy thereof shall be filed and kept at the Rolls Office, and such copy shall be open to the inspection of any creditor, or of any person interested.

(5) In case the court so orders, the liquidator shall, when the account has been audited (alternatively, when he has been notified of the court's decision not to have an audit) cause the account or a summary of it to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory.

Control of court over liquidators.

189.(1) The court shall take cognizance of the conduct of liquidators of companies which are being wound up by the court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the court by any creditor or contributory in regard thereto, the court shall inquire into the matter, and take such action thereon as they may think expedient.

(2) The court may at any time require any liquidator of a company which is being wound up by the court to answer any inquiry in relation to any winding up in which he is engaged, and may, if the court thinks fit, require such

liquidator or any other person to attend before the court to be examined on oath concerning the winding up.

(3) The court may also direct a local investigation to be made of the books and vouchers of the liquidator.

Release of liquidators.

190.(1) When the liquidator of a company which is being wound up by the court has realised all the property of the company, or so much thereof as can, in his opinion, be realised without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report, and any objection which may be urged by any creditor or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where the release of a liquidator is withheld the court may on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made to contrary to his duty.

(3) An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

Committees of Inspection.

Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.

191.(1) When a winding up order has been made by the court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the court for appointing a liquidator in place of the official receiver, to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the court shall decide the difference and make such order thereon as the court may think fit.

Constitution and proceedings of committee of inspection.

192.(1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference may be determined by the court.

- (2) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.
- (3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.
- (4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.
- (5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.
- (6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.
- (7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.
- (8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

Powers of court where no committee of inspection.

193. Where in the case of a winding up there is no committee of inspection, the court may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Act authorised or required to be done or given by the committee.

General Powers of Court in case of Winding Up by Court.

Power to stay winding up.

194.(1) The court may at any time after an order for winding up, on the application either of the liquidator, or the official receiver, or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

(2) On any application under this section the court may, before making an order, require the official receiver to furnish to the court a report with respect to any facts or matters which are in his opinion relevant to the application.

Settlement of list of contributories and application of assets.

195.(1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

Provided that, where it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Delivery of property to liquidator.

196. The court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to the liquidator any money, property, or books and papers in his hands to which the company is *prima facie* entitled.

Payment of debts due by contributory to company and extent to which set off allowed.

197.(1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act.

(2) The court in making such an order may -

- (a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and
- (b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of court to make calls.

198.(1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for the payment of any calls so made.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

Payment into court of moneys due to company.

199. The court may order any contributory, purchaser or other person from whom money is due to the company to pay the amount due into court to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

Order on contributory conclusive evidence.

200.(1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings.

Appointment of special manager.

201.(1) Where in proceedings the official receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the court, and the court may on such application appoint a special manager of the said estate or business to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

(2) The special manager shall give such security and account in such manner as the court direct.

(3) The special manager shall receive such remuneration as may be fixed by the court.

Power to exclude creditors not proving in time.

202. The court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Adjustment of rights of contributories.

203. The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled hereto.

Inspection of books by creditors and contributories.

204. The court may, at any time after making a winding up order, make such order for inspection of the books and papers of the company by creditors and contributories as the court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Power to order costs of winding up to be paid out of assets.

205. The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding up in such order of priority as the court thinks just.

Power to summon persons suspected of having property of company.

206.(1) The court may at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the company.

(2) The court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting, and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

Power to order public examination of promoters, directors, etc.

207.(1) Where an order has been made for winding up a company by the court, and the official receiver has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, after consideration of the report, direct that that person, director or officer shall attend before the court on a day appointed by the court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, as to his conduct and dealings as director or officer thereof.

(2) The official receiver shall take part in the examination, and for that purpose may, if specially authorised by the court in that behalf, employ an advocate.

(3) The liquidator, where the official receiver is not the liquidator, and any creditor or contributory, may also take part in the examination either personally or by his advocate.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the official receiver's report, and may at his own cost employ an advocate, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify

any answers given by him.

Provided that if any such person applies to the court to be exculpated from any charges made or suggested against him, it shall be the duty of the official receiver to appear on the hearing of the application and call the attention of the court to any matters which appear to the official receiver to be relevant, and if the court, after hearing any evidence given or witnesses called by the official receiver, grants the application, the court may allow the applicant such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

Power to restrain fraudulent persons from managing companies.

208.(1) Where an order has been made for winding up a company by the court, and the official receiver has made a further report under this Act stating that, in his opinion, a fraud has been committed by a person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, on the application of the official receiver, order that that person, director or officer shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the report as may be specified in the order.

(2) The official receiver shall, where he intends to make an application under the last foregoing subsection, give not less than ten days' notice of his intention to the person charged with the fraud, and on the hearing of the application that person may appear and himself give evidence or call witnesses.

(3) It shall be the duty of the official receiver to appear on the hearing of an application by him for an order under this section and on an application for leave under this section and to call the attention of the court to any matters which appear to him to be relevant, and on any such application the official receiver may himself give evidence or call witnesses.

(4) If any person acts in contravention of an order made under this section he shall, in respect of each offence, be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding six months or to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000;

or to both such imprisonment and fine.

(5) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made.

Power to arrest absconding contributory.

209. The court, at any time either before or after making a winding-up order, on proof of probable cause for

believing that a contributory is about to quit the Isle of Man, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and moveable personal property to be seized, and him and them to be safely kept until such time as the court may order.

Powers of court cumulative.

210. Any powers by this Act conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Delegation to liquidator of certain powers of court.

211. Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court by this Act in respect of the following matters -

- (1) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (2) the settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;
- (3) the paying, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (4) the making of calls;
- (5) the fixing of a time within which such debts and claims must be proved;

to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court:

Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either the special leave of the court or the sanction of the committee of inspection.

Dissolution of company.

212.(1) When the affairs of a company have been completely wound up, the court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall within fourteen days from the date thereof be reported by the liquidator to the Financial Supervision Commission who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator makes default in complying with the requirements of this section he shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Enforcement of and Appeal from Orders.

Appeals from orders.

213. Rehearings of, and appeals from, any order or decision made or given in the matter of the winding up of a company by the court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had, from any order or decision of the same court in cases within its ordinary jurisdiction; subject to this restriction, that no rehearing or appeal shall be heard unless the petition for such rehearing or appeal has been presented within three weeks after the order or decision complained of has been made, unless such time is extended by the court whose order or decision is appealed from.

(iii) VOLUNTARY WINDING UP

Resolutions for, and commencement of Voluntary Winding Up.

Circumstances in which company may be wound up voluntarily.

214.(1) A company may be wound up voluntarily -

- (a) When the period, if any, fixed for the duration of the company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;
- (b) If the company resolves by special resolution that the company be wound up voluntarily;
- (c) If the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Act the expression “a resolution for voluntary winding-up” means a resolution passed under any of the provisions of subsection (1) of this section.

Notice of resolution to wind up voluntarily.

215.(1) When a company has passed a resolution for voluntary winding up, it shall, within seven days after the passing of the resolution, give notice of the resolution by advertisement in two or more newspapers published and circulating in the Isle of Man.

(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, and for the purposes of this subsection the liquidator of the company shall be deemed to be an officer of the company.

Commencement of voluntary winding up.

215A. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for

voluntary winding up.

Effect of Voluntary Winding Up.

Effect of voluntary winding up on business and status of company.

216. In the case of a voluntary winding up, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Avoidance of transfers, etc., after commencement of voluntary winding up.

217. Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the company, made after the commencement of a voluntary winding up, shall be void.

Declaration of Solvency.

Statutory declaration of solvency in case of proposal to wind up voluntarily.

218.(1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out, make a statutory declaration to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding twelve months, from the commencement of the winding up.

(2) A declaration made as aforesaid shall have no effect for the purposes of this Act unless it is delivered to the Financial Supervision Commission for registration before the date mentioned in subsection (1) of this section and it is made within the 6 weeks immediately preceding the date of the passing of the resolution for winding up.

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this act referred to as “a members’ voluntary winding up”, and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as “a creditors’ voluntary winding up”.

Provisions applicable to a Members’ Voluntary Winding Up.

Provisions applicable to a members’ voluntary winding up.

219. The provisions contained in the five sections of this Act next following shall apply in relation to a members’ voluntary winding up.

Power of company to appoint and fix remuneration of liquidators.

220.(1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

Power to fill vacancy in office of liquidator.

221.(1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

Power of liquidator to accept shares, etc., as consideration for sale of property of company.

222.(1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called "the transferee company") the liquidator of the first-mentioned company (in this section called "the transferor company") may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but, if an order is made within a year for winding up the company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

- (6) For the purposes of an arbitration under this section, the following provisions shall have effect –

Appointment of arbitrator.

- (a) Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall, by writing under his hand, nominate and appoint an arbitrator, to whom such dispute shall be referred; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

In case of death, etc., of arbitrator, how vacancy supplied.

- (b) If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable, or refuse, or for seven days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed ex parte; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

Appointment of umpire.

- (c) Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any matters on which they shall differ; and if such umpire shall die, or refuse, or for seven days neglect to act, they shall forthwith after such death, refusal, or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire by court in certain cases.

- (d) If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, it shall be lawful for the court, if it thinks fit, in any case on the application of either party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ shall be final.

Arbitrators may call for books.

- (e) The said arbitrators or the umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrators may award costs.

- (f) Except where by this Act it is otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators or their umpires, as the case may be.

Duty of liquidator to call general meeting at end of each year.

223.(1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

- (2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding £1,000.

Final meeting and dissolution.

224.(1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

- (2) The meeting shall be called by advertisement in two or more newspapers published and circulating in the Isle of Man and in the London Gazette, specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall send to the Financial Supervision Commission a copy of the account, and shall make a return to it of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall be deemed to have been complied with.

(4) The Financial Supervision Commission on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to deliver to the Financial Supervision Commission an office copy of the order for registration, and if that person fails so to do he shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Provisions applicable to a Creditors' Voluntary Winding Up.

Provisions applicable to a creditors' winding up.

225. The provisions contained in the eight sections of this Act next following shall apply in relation to a creditors' voluntary winding up.

Meeting of creditors.

226.(1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in two newspapers published and circulating in the Isle of Man and in the London Gazette.

(3) The directors of the company shall -

- (a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of the creditors to be held as aforesaid; and
- (b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of subsection (1) of this section shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made -

- (a) by the company in complying with subsections (1) and (2) of this section;
- (b) by the directors of the company in complying with subsection (3) of this section;
- (c) by any director of the company in complying with subsection (4) of this section;

the company, directors or director, as the case may be, shall be liable to -

- (a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000,

and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

Appointment of liquidator.

227. The creditors and the company at their respective meetings mentioned in the last foregoing section of this Act may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator:

Provided that in the case of different persons being nominated any director, member, or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

Appointment of committee of inspection.

228.(1) The creditors at the meeting to be held in pursuance of section two hundred and twenty-six of this Act or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number:

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to general rules, the provisions of section one hundred and ninety-two (except subsection (1)) of this Act shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court.

Fixing of liquidators' remuneration and cesser of directors' powers.

229.(1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

Power to fill vacancy in office of liquidator.

230. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the court, the creditors may fill the vacancy.

Application of s.222 to a creditors' voluntary winding up.

231. The provisions of section two hundred and twenty-two of this Act shall apply in the case of a creditors' voluntary winding up, as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the court or of the committee of inspection.

Duty of liquidator to call meetings of company and of creditors at end of each year.

232.(1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

(2) If the liquidator fails to comply with this section he shall be liable to a fine not exceeding £1,000.

Final meeting and dissolution.

233.(1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.

(2) Each such meeting shall be called by advertisement in two newspapers published and circulating in the Isle of Man and in the London Gazette, specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the Financial Supervision Commission a copy of the account, and shall make a return to it of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000:

Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The Financial Supervision Commission on receiving the account and in respect of each such meeting either

of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to deliver to the Financial Supervision Commission an office copy of the order for registration, and if that person fails so to do he shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Provisions applicable to every Voluntary Winding Up.

Provisions applicable to every voluntary winding up.

234. The provisions contained in the nine sections of this Act next following shall apply to every voluntary winding up whether a members' or a creditors' winding up.

Distribution of property of company.

235. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu*, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Powers and duties of liquidator in voluntary winding up.

236.(1) The liquidator may -

- (a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and, in the case of a creditors' voluntary winding up, with the sanction of either the court or the committee of inspection, exercise any of the powers given by paragraphs (d), (e) and (f) of subsection (1) of section one hundred and eighty-four of this Act to a liquidator in a winding up by the court:
- (b) without sanction, exercise any of the other powers by this Act given to the liquidator in a winding up by the court:
- (c) exercise the power of the court under this Act of settling a list of contributories, and the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories:
- (d) exercise the power of the court of making calls:

(e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two.

Appointment of liquidator.

237.(1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.

(2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

Notice by liquidator of his appointment.

238.(1) The liquidator shall, within twenty-one days after his appointment, deliver to the Financial Supervision Commission for registration a notice of his appointment in the prescribed form.

(2) If the liquidator fails to comply with the requirements of this section he shall be liable to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000.

Arrangement when binding on creditors.

239.(1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

Power to apply to court to have questions determined or powers exercised.

240.(1) The liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

Costs of voluntary winding up.

241. All costs, charges, and expenses properly incurred in the winding up, including remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

Saving for rights of creditors and contributories.

242. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the court, but in the case of an application by a contributory, the court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

(iv) WINDING UP SUBJECT TO SUPERVISION OF COURT.

Power to order winding up subject to supervision.

243. When a company has passed a resolution for voluntary winding up, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories, or others to apply to the court, and generally on such terms and conditions as the court thinks just.

Effect of petition for winding up subject to supervision.

244. A petition for the continuance of a voluntary winding up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding up by the court.

Application of ss.167 and 168 to winding up subject to supervision.

245. A winding up subject to the supervision of the court shall, for the purposes of section one hundred and sixty-seven and one hundred and sixty-eight of this Act, be deemed to be a winding up by the court.

Power of court to appoint additional liquidators.

246.(1) Where an order is made for a winding up subject to supervision, the court may by that or any subsequent order appoint an additional liquidator.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been duly appointed in accordance with the provisions of this Act with respect to the appointment of liquidators in a voluntary winding up.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

Effect of supervision order.

246A.(1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the company were being wound up altogether voluntarily:

Provided that the powers specified in paragraphs (d), (e) and (f) of subsection (1) of section one hundred and eighty-four of this Act shall not be exercised by the liquidator except with the sanction of the court or, in a case where before the order the winding up was a creditor's voluntary winding up, with the sanction of either the court or the committee of inspection.

(2) A winding up subject to the supervision of the court is not a winding up by the court for the purpose of the provisions of this Act, but, subject as aforesaid, an order for a winding up subject to supervision shall for all purposes be deemed to be an order for winding up by the court:

Provided that where the order for winding up subject to supervision was made in relation to a creditor's voluntary winding up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding up by the court for the purpose of section one hundred and ninety-two (except subsection (1) thereof) of this Act, except in so far as the operation of those sections is excluded in a voluntary winding up by general rules.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP.

Proof and Ranking of Claims.

Debts of all descriptions to be proved.

247. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

Application of bankruptcy rules in winding up of insolvent companies.

248. In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments.

249.(1) In a winding up there shall be paid in priority to all other debts the debts specified in the Preferential Payments Act 1908.

(2) [Repealed]

Effect of Winding Up on antecedent and other Transactions.

Fraudulent preference.

250.(1) Any conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section the commencement of the winding up shall be deemed to correspond with the presentation of the bankruptcy petition in the case of an individual.

(3) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

Effect of floating charge.

251. Where a company is being wound up, a floating charge on the undertaking or property of the company created within six months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

Disclaimer of onerous property in case of company being wound up.

252.(1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property.

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of the disclaimer, the rights, interest, and liabilities of the company, and the property of the company, in or in respect of the property disclaimed but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested,

and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for leave to disclaim and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period, disclaim the contract, the company shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as mortgagee by demise, including a chargee by way of legal mortgage, except upon the terms of making that person -

- (a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding-up; or
- (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the company in the property of any person liable either personally or in a representative character, and either alone or jointly with the company to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

Restriction of rights of creditor as to execution or attachment in case of company being wound up.

253.(1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that -

- (a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding up; and
- (b) a person who purchases in good faith under a sale by the coroner any goods of a company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator.

(2) For the purposes of this section, an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

(3) In this section the expression "goods" includes all chattels personal, and the expression "coroner" includes any officer charged with the execution of a writ or other process.

Duties of coroner as to goods taken in execution.

254.(1) Where any goods of a company are taken in execution and before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the coroner that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding up has been passed, the coroner shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.

(2) Where under an execution in respect of a judgment for a sum exceeding twenty pounds the goods of a company are sold or money is paid in order to avoid sale, the coroner shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for fourteen days, and if within that time the notice is served on him of a petition for the winding up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company and an order is made or a resolution is passed, as the case may be, for the winding up of the company, the coroner shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) In this section the expression "goods" includes all chattels personal, and the expression "coroner" includes any officer charged with the execution of a writ or other process.

Offences antecedent to or in course of Winding Up.

Offences by officers of companies in liquidation.

255.(1) If any person, being a past or present director, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the court or voluntarily, or is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up

- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator

all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or

- (b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of ten pounds or upwards, or conceals any debt due to or from the company; or
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of ten pounds or upwards; or
- (f) makes any material omission in any statement relating to the affairs of the company; or
- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or
- (i) within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or paper affecting or relating to the property or affairs of the company; or
- (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or
- (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering, or making any omission in, any document affecting or relating to the property or affairs of the company; or
- (l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up attempts to account for any part of the property of the company by fictitious losses or expenses; or
- (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for; or
- (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on

credit, for or on behalf of the company, any property which the company does not subsequently pay for; or

- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges, or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the company; or
- (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up;

he shall be guilty of a misdemeanour and shall, in the case of the offences mentioned respectively in paragraphs (m), (n), and (o) of this subsection, be liable on conviction on information to penal servitude for a term not exceeding five years, or on summary conviction to imprisonment for a term not exceeding twelve months, or to -

- (a) on information, a fine,
- (b) on summary trial, a fine not exceeding £5,000,

and in the case of any other offence shall be liable on conviction on information to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding twelve months, or to -

- (a) on information, a fine,
- (b) on summary trial, a fine not exceeding £5,000:

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f), (n), and (o), if the accused proves that he had no intent to defraud, and to a charge under any of the paragraphs (h), (i), and (j), if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to a misdemeanour under paragraph (o) of subsection (1) of this section, every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid shall be guilty of a misdemeanour, and on conviction thereof liable to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to a misdemeanour.

(3) For the purpose of this section, the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

Penalty for falsification of books.

256. If any director, manager or other officer, or contributory of any company being wound up destroys, mutilates, alters, or falsifies any books, papers, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of a misdemeanour, and be liable to imprisonment for any term not exceeding two years.

Frauds by officers of companies which have gone into liquidation.

257. If any person, being at the time of the commission of the alleged offence a director, manager or other officer of a company which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up -

- (a) has by false pretences or by means of any other fraud induced any person to give credit to the company;
- (b) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against the property of the company;
- (c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against the company;

he shall be guilty of a misdemeanour and shall be liable on conviction on information to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding twelve months, or to -

- (a) on information, a fine,
- (b) on summary trial, a fine of £5,000.

258. [Repealed]

Responsibility of directors for fraudulent trading.

259.(1) If in the course of the winding up of a company it appears that any business of the company has been carried out with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, the court, on application of the official receiver or the liquidator, or any creditor or contributory of the company, may, if it thinks proper so to do, declare that any of the directors, whether past or present, of the company who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the court may direct.

(2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any such director under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the director, company or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.

For the purposes of this subsection the expression "assignee" includes any person to whom or in whose favour, by the directions of the director, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in subsection (1) of this section, every director of the company who was knowingly a party to the carrying on of the

business in manner aforesaid, shall be liable on conviction on information to imprisonment for a term not exceeding one year.

(4) The court may, in the case of any person in respect of whom a declaration has been made under subsection (1) of this section, or who has been convicted of an offence under subsection (3) of this section, order that that person shall not, without leave of the court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding five years, from the date of the declaration or of the conviction, as the case may be, as may be specified in the order, and if any person acts in contravention of an order made under this subsection he shall, in respect of each offence, be liable on conviction on information to imprisonment for a term not exceeding two years or on summary conviction to imprisonment for a term not exceeding six months or to -

(a) on information, a fine;

(b) on summary trial, a fine not exceeding £5,000;

or to both such imprisonment and fine.

In this subsection the expression “the court” in relation to the making of an order, means the court by which the declaration was made or the court before which the person was convicted, as the case may be, and in relation to the granting of leave means any court having jurisdiction to wind up the company.

(5) For the purposes of this section, the expression “director” shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

(6) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made, and where the declaration under subsection (1) of this section is made in the case of a winding up the declaration shall be deemed to be a final judgment within the meaning of the Bankruptcy Acts.

(7) It shall be the duty of the official receiver or of the liquidator to appear on the hearing of an application for leave under subsection (4) of this section, and on the hearing of an application under that subsection or under subsection (1) of this section the official receiver or the liquidator, as the case may be, may himself give evidence or call witnesses.

(8) The Financial Supervision Commission shall keep an index, in the prescribed form and with the prescribed particulars of those persons subject to orders under subsection (4) and shall make the index available for inspection at the office for the registration of companies and on the Financial Supervision Commission website or in such other manner as the Financial Supervision Commission may deem appropriate.

Power of court to assess damages against delinquent directors, etc.

260.(1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of the official receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator, or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) Where in the case of a winding up an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning of the Bankruptcy Acts.

Prosecution of delinquent officers and members of company.

261.(1) If it appears to the court in the course of a winding up by, or subject to the supervision of, the court that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the Attorney General.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the Attorney General, and shall furnish to the Attorney General such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as he may require.

(3) If on any report to the Attorney General under subsection (2) of this section it appears to him that the case is not one in which proceedings ought to be taken by him, he shall inform the liquidator accordingly, and thereupon, subject to the previous sanction of the court, the liquidator may himself take proceedings against the offender.

(4) If it appears to the court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Attorney General under subsection (2) of this section, the court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of subsection (2) of this section.

(5) If, where any matter is reported or referred to the Attorney General under this section, he considers that the case is one in which a prosecution ought to be instituted, and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which he is reasonably able to give.

For the purposes of this subsection, the expression "agent" in relation to a company shall be deemed to include any banker or advocate of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(6) If any person fails or neglects to give assistance in manner required by subsection (5) of this section, the court may, on the application of the Attorney General, direct that person to comply with the requirements of the said subsection, and where any such application is made with respect to a liquidator the court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

(7) The court may direct that the whole or any part of any costs and expenses properly incurred by the liquidator in proceedings duly brought by him under this section shall be defrayed by the Treasurer of the Isle of Man.

Subject to any direction under this subsection and to any mortgages or charges on the assets of the company and any debts to which priority is given by section two hundred and forty-nine of this Act, all such costs and expenses as aforesaid shall be payable out of those assets in priority to all other liabilities payable thereout.

Supplementary Provisions as to Winding Up.

Disqualification for appointment as liquidator.

262.(1) A body corporate shall not be qualified for appointment as liquidator of a company, whether in a winding up by or under the supervision of the court or in a voluntary winding up, and any appointment made in contravention of this provision shall be void.

(2) Nothing in this section shall disqualify a body corporate from acting as liquidator of a company if acting under an appointment made before the commencement of this Act, but subject as aforesaid any body corporate which acts as liquidator of a company shall be liable to a fine not exceeding £5,000.

Enforcement of duty of liquidator to make returns, etc.

263.(1) If any liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the company or by the Financial Supervision Commission, make an order directing the liquidator to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

Notification that a company is in liquidation.

264.(1) Where a company is being wound up, whether by or under the supervision of the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company, and every liquidator of the company, and every receiver or manager, who knowingly and wilfully authorises or permits the default, shall be liable to a fine not exceeding £5,000.

Books of company to be evidence.

265. Where a company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein

recorded.

Disposal of books and papers of company.

266.(1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say -

- (a) In the case of a winding up by, or subject to the supervision of, the court in such way as the court directs;
- (b) In the case of a members' voluntary winding up, in such way as the company by extraordinary resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company, may direct.

(2) After five years from the dissolution of the company no responsibility shall rest on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) Provision may be made by general rules for enabling the court to prevent, for such period (not exceeding five years from the dissolution of the company) as the court think proper, the destruction of the books and papers of a company which has been wound up, and for enabling any creditor or contributory of the company to make representations to the court.

(4) If any person acts in contravention of any general rules made for the purposes of this section or of any direction of the court thereunder, he shall be liable to a fine not exceeding £5,000.

Information as to pending liquidation.

267.(1) If where a company is being wound up the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the Financial Supervision Commission a statement in the prescribed form, or until a form is prescribed in some convenient form, and containing the prescribed particulars, or until the same are prescribed the fullest practicable particulars, with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the fee prescribed under section 283A, to inspect the statement, and to receive a copy thereof or extract therefrom.

(3) If a liquidator fails to comply with this section he shall be liable to -

- (a) on information, a fine
- (b) on summary trial, a fine not exceeding £5,000;

and any person untruthfully stating himself as aforesaid to be a creditor or contributory shall be guilty of a contempt of court, and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.

Unclaimed assets to be paid into court.

268.(1) If where a company is being wound up, it appears either from any statement sent to the Financial Supervision Commission under the last foregoing section or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt the liquidator shall forthwith pay the said money into court.

(2) Any person claiming to be entitled to any money paid into the court in pursuance of this section may apply to the court for payment thereof, and the court may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

Resolutions passed at adjourned meetings of creditors and contributories.

269. Where after the commencement of this Act a resolution is passed at an adjourned meeting of any creditors or contributories of the company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Supplementary Powers of Court.

Meetings to ascertain wishes of creditors or contributories.

270.(1) The court may, as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories of the company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Act or the articles.

Affidavits, etc., in United Kingdom and dominions.

271.(1) Any affidavit required to be sworn under the provisions or for the purposes of this Part of this Act may be sworn within the dominions of His Majesty, before any court, judge, or person lawfully authorised to take and receive affidavits or before any of His Majesty's consuls or vice-consuls in any place outside His Majesty's dominions.

(2) All courts, judges, justices, commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such court, judge, person, consul, or vice-consul attached, appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part of this Act.

Provisions as to Dissolution.

Power of court to declare dissolution of company void.

272.(1) Where a company has been dissolved, the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within seven days after the making of the order, or such further time as the court may allow, to deliver to the Financial Supervision Commission for registration an office copy of the order, and if that person fails so to do he shall be liable to -

- (a)* on information, a fine;
- (b)* on summary trial, a fine not exceeding £5,000.

Financial Supervision Commission may strike defunct company off register.

273.(1) Where the Financial Supervision Commission has reasonable cause to believe that a company is not carrying on business or in operation, it may send to the company a letter -

- (a)* inquiring whether the company is carrying on business or in operation; and
- (b)* stating that if no answer is received within two months from the date of the letter, a notice will be published in two newspapers published with a view to striking the name of the company off the register.

(2) A letter under subsection (1) of this section shall be sent by recorded delivery.

(3) If the Financial Supervision Commission either receives an answer to the effect that the company is not carrying on business or in operation, or does not within two months after sending the letter under subsection (1) of this section receive any answer, it will publish, and send to the company by post, a notice that at the expiration of two months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Financial Supervision Commission has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the Financial Supervision Commission shall publish and send to the company or the liquidator, if any, a like notice as is provided in the last preceding subsection.

(5) At the expiration of the time mentioned in the notice the Financial Supervision Commission may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof, and on the publication as aforesaid of this notice the company shall be dissolved:

Provided that -

- (a)* the liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- (b)* nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.

(6) If a company, any director, member or creditor thereof feels aggrieved by the company having been struck off the register, the court on an application made by the company, any director, member or creditor before the expiration of 12 years from the publication of the notice aforesaid may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the Financial Supervision Commission for registration together with such fee as may be prescribed under section 283A for the restoration of the company to the register, the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(7) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered or the Financial Supervision Commission has reasonable cause to believe that the registered office has been abandoned, to the care of some director or officer of the company, or, if there is no director or officer of the company whose name and address are known to the Financial Supervision Commission, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

(8) For the purposes of this section, a company which has failed to forward an annual return to the Financial Supervision Commission within 6 months after the company's return date under section 109(1) of this Act shall be deemed not to be in operation until such return is forwarded to the Financial Supervision Commission.

(9) Subsection (8) of this section is without prejudice to section 109(4) of this Act.

(10) If the Financial Supervision Commission has reasonable cause to believe that a company has abandoned its registered office, the Financial Supervision Commission may strike the name of that company off the register in the same manner and subject to the same notice and conditions as a company that is not in operation.

(11) In any case to which subsection (10) applies, a requirement in this section to send a letter or notice to the company shall be treated as complied with if the letter or notice is sent to each person who, on the date on which the letter or notice is sent, is shown as a director of the company in the documents kept by the Financial Supervision Commission.

(12) For the purposes of this section and section 273A, a notice shall be considered published –

- (a) by publishing a notice in one edition of a newspaper published and circulating in the Isle of Man; and
- (b) by publishing a notice on the Financial Supervision Commission website, for a minimum period of one month; and
- (c) by the Financial Supervision Commission maintaining a current list in the prescribed form and with the prescribed particulars of all companies in respect of which notice has been published and by making such list available for inspection by any person.

Alternative procedure for dissolving solvent companies.

273A.(1) Where a company (not being a public company) has ceased to operate and has discharged all its debts and liabilities (other than those owed to its shareholders in respect of their shares, if any) any officer or member of the company may apply to the Financial Supervision Commission for a declaration of dissolution of the company.

(2) An application by a company under this section in the prescribed form for a declaration of dissolution shall be in writing and shall be accompanied by a statutory declaration made by an officer or member of the company stating that the company has ceased to operate, that it has complied with its obligations under sections 107 to 110 and that to the best of his knowledge and belief and having made full enquiry into the affairs of the company, he is satisfied that -

- (a) the company has discharged all its debts and liabilities (other than those owed to its shareholders in respect of their shares, if any); and
- (b) the particulars contained within the last annual return of the company (or, in the case of a company for which an annual return has not fallen due, the particulars filed on first incorporation) remain accurate at the date of making the statutory declaration or that they are accurate as amended by the applicant at the date of making the statutory declaration.

(3) Upon receipt of an application under subsection (1) the Financial Supervision Commission shall -

- (a) publish a notice in the manner prescribed by section 273(12) to the effect that the applicant has applied to the Financial Supervision Commission for a declaration of dissolution of the company and that, unless written objection is made to the Financial Supervision Commission within one month of the date of publication of the notice the Financial Supervision Commission may dissolve the company; and
- (b) within one month of the date of publication of the notice obtain written notice from the Assessor of Income Tax, the Collector of Customs and Excise and the Attorney General that they have no objection to the making of a declaration of dissolution in respect of the company.

(4) The court, on being satisfied that the period made available to the Assessor of Income Tax or the Collector of Customs and Excise or the Attorney General by the Financial Supervision Commission for the making of objections under subsection (3)(b) requires to be extended, may upon application order that the period for objections shall be extended on such terms and conditions as it deems appropriate.

(5) Before making an application to the Financial Supervision Commission under this section, the applicant shall ensure that there has been sent by pre-paid post to each director, the secretary and to each member of the company at the last address of which the company has notice, a notice to the effect that the applicant proposes to apply to the Financial Supervision Commission for a declaration of dissolution of that company and that, unless written objection is made to the Financial Supervision Commission within one month of the date the notice was posted, the Financial Supervision Commission may dissolve the company.

(6) The Financial Supervision Commission shall not make a declaration of dissolution of a company earlier than one month after the date of the publication of the notice required by subsection (3) of this section.

(7) On receipt of any written objection to the dissolution of the company, the Financial Supervision Commission shall notify the applicant for the declaration of dissolution of the receipt of the objection and of the identity of the objector.

(8) Where a person has objected to the dissolution of the company, the Financial Supervision Commission shall not declare the dissolution of it unless -

- (a) the objection is withdrawn; or
- (b) the Financial Supervision Commission decides that the objection is without justification and the objector has not appealed against the Financial Supervision Commission's

decision within the time specified in section 283C or the court has upheld the decision.

(9) If the Financial Supervision Commission is not prevented from declaring the dissolution of a company pursuant to this section and agrees to the dissolution, it shall notify the company that, subject to the company's memorandum of association and articles of association, it is entitled to distribute its surplus assets among its members according to their respective rights and, notwithstanding any other provision of this Act or any rule of law, the company may distribute its surplus assets accordingly.

(10) Subject to subsection (11) of this section, on receipt of notification from a company -

- (i) that its surplus assets have been distributed in accordance with subsection (9); or
- (ii) that the company having carried out full inquiry is unable to distribute its surplus assets for cause shown;

the Financial Supervision Commission shall publish a notice in the manner prescribed in section 273(12) which declares that the company is dissolved and, on the publication of the notice the company shall be dissolved and any surplus assets which have not been distributed shall be deemed to be bona vacantia in accordance with section 274.

(11) Notwithstanding the dissolution of the company -

- (a) the liability, if any, of every officer and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- (b) notwithstanding that a company has been dissolved, or that its surplus assets have been distributed in accordance with this section, the court may wind up the company as if it had not been dissolved, or its surplus assets had not been distributed, as the case may be.

(12) Where a company has been dissolved pursuant to this section, the court, on an application made by the Financial Supervision Commission, an officer or a member or creditor of the company before the expiration of 12 years from the publication of the notice of dissolution, may, if satisfied that at the time of dissolution of the company it was in operation or had not discharged all its debts and liabilities or otherwise that it is just that the dissolution of the company be revoked, order that the dissolution of the company be revoked, and upon a sealed copy of the order being delivered to the Financial Supervision Commission for registration, the company shall be deemed to have continued in existence as if it had not been dissolved; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the company had not been dissolved.

(13) An order under subsection (12) may be made on such terms and conditions as the court thinks fit.

(14) For the purposes of this section, the Treasury may make regulations permitting applications to be made to it in appropriate cases and subject to conditions for the remission of fees and duties due under section 283A of this Act or sections 4 and 5 of the Non-Resident Company Duty Act 1986.

Restoration of dissolved companies to the register.

273B.(1) A company, any director, member or creditor thereof who feels aggrieved by the company having been either -

- (a) struck off the register under section 273 of this Act; or

(b) dissolved under section 273A of this Act,

may, before the expiration of 12 years from the publication of a notice under section 273(5) or section 273A(8), make application to the Financial Supervision Commission for a direction under this section.

(1A) Upon receipt of an application under subsection (1) the Financial Supervision Commission shall, within a reasonable time, publish notice of the application on the Financial Supervision Commission website and shall maintain a current list of applications.

(2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by -

(a) a copy of the notice given under subsection (3) of this section; and

(b) written notice from the Attorney General, the Assessor of Income Tax and the Collector of Customs and Excise stating that they have no objection to the restoration of the company to the register.

(3) Before making an application to the Financial Supervision Commission under subsection (1) of this section, the applicant shall ensure that there has been -

(a) published in one newspaper published and circulating in the Isle of Man; and

(b) sent by post to each director, the secretary and to each member of the company at the last address of which the company has notice,

a notice to the effect that the applicant proposes to apply to the Financial Supervision Commission for a direction restoring the company to the register and that unless written objection is made to the Financial Supervision Commission within 30 days of the date of publishing or posting, as the case may be, the Financial Supervision Commission may make such direction.

(4) The Financial Supervision Commission shall not make a direction under this section earlier than 30 days after the date of publication or posting, as the case may be, of the last notice published or posted for the purposes of subsection (3) of this section.

(5) On receipt of any written objection to the restoration of the company, the Financial Supervision Commission shall forthwith notify the applicant of the receipt of the objection and of the identity of the objector.

(6) The Financial Supervision Commission shall not make a direction under this section unless -

(a) there are no objections to the restoration of the company under this section; or

(b) all objections are withdrawn; or

(c) the Financial Supervision Commission decides that the objections are completely without justification and that the objector has not appealed against the Financial Supervision Commission's decision within the time specified in section 283C of this Act or the court has upheld the Financial Supervision Commission's decision.

(7) On receipt of an application under this section the Financial Supervision Commission, if satisfied that there are good grounds for restoration of the company to the register, may direct the name of the company to be restored to the register.

(8) A direction given under this section may be made subject to conditions and the Financial Supervision

Commission may include such further directions and such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been dissolved and without prejudice to the generality of the foregoing any fees and duties due to the Financial Supervision Commission shall be due and payable at the rates prevailing at the date of such restoration.

(9) When the applicant delivers a certified copy of the direction for registration the company shall be deemed to have continued in existence as if its name had not been struck off.

(10) This section is without prejudice to the powers of the court under sections 273 and 273A of this Act.

Property of dissolved company to be *bona vacantia*.

274.(1) Where a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any other person) shall be deemed to be *bona vacantia* and shall accordingly vest in the Treasury in trust for the Crown and may be dealt with in the same manner as other *bona vacantia* accruing to the Crown.

(2) Except as provided by section 274B below, this section shall have effect subject and without prejudice to any order made by the court under sections 272 or 273 of this Act.

Power to disclaim title to property vesting under section 274.

274A.(1) Where any property vests in the Treasury under section 274 above, the Treasury's title thereto under that section may be disclaimed by a notice by the Treasury.

(2) Where a notice of disclaimer under this section is executed as respects any property, that property shall be deemed not to have vested in the Treasury under section 274, and subsections (2) and (6) of section 252 of this Act shall apply in relation to the property as if it had been disclaimed under subsection (1) of the said section 252 immediately before the dissolution of the company.

(3) The right to execute a notice of disclaimer under this section may be waived by the Treasury either expressly or by taking possession or other act evincing that intention.

Disposal of property vesting under section 274.

274B.(1) Where a company is dissolved and any property or right vested in or held on trust for that company immediately before its dissolution vests as *bona vacantia* accruing to the Treasury by virtue of section 274 above, the Treasury may dispose of, or of an interest in, that property or right notwithstanding that an order may be made under section 272(1) or 273(6) of this Act in relation to that company; and where any such order is made -

- (a) it shall not affect that disposition (but without prejudice to that order so far as it relates to any other property or right previously vested in or held on trust for the company); and
- (b) the Treasury shall pay to the company an amount equal to the amount of any consideration received for the property or right, or interest therein, or to the value of any such consideration at the time of the disposition, or, if no consideration was received, an amount equal to the value of the property, right or interest disposed of, as at the date of the

disposition.

(2) This section applies in relation to the disposition of any property, right or interest on or after the day on which this section comes into operation, whether the company concerned was dissolved before, on or after that day.

274C. [Repealed]

Officers

Officers and remuneration.

275.(1) The Treasury may appoint such officers as may be required for the execution of this Act, and may remove any person so appointed.

(2) The Treasury shall direct whether any and what remuneration is to be allowed to any officer performing any duties under this Act in relation to the winding up of companies, and may vary, increase, or diminish that remuneration as it thinks fit.

Rules and Fees.

Fees to be paid, etc.

276.(1) General rules for carrying into effect the objects of this Act shall be made from time to time as circumstances require in manner provided by Part III of the High Court Act, 1991, and the provisions as to rules and the practice of the courts in such Act shall be applicable to proceedings under this Act.

(2) There shall be paid in respect of proceedings under this Act in relation to the winding up of companies such fees as may be prescribed under section 283A.

PART VI - RECEIVERS AND MANAGERS.

Disqualification for appointment as receiver.

277.(1) A body corporate shall not be qualified for appointment as receiver of the property of a company.

(2) Nothing in this section shall disqualify a body corporate from acting as receiver as aforesaid if acting under an appointment made before the commencement of this Act, but subject as aforesaid any body corporate which acts as receiver as aforesaid shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Power to appoint official receiver as receiver for debenture holders or creditors.

278. Where an application is made to the court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the court, the official receiver may be so appointed.

Notification that receiver or manager has been appointed.

279.(1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company, or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with the requirements of this section, the company and every director, manager, secretary, or other officer of the company, and every liquidator of the company, and every receiver or manager, who knowingly and wilfully authorises or permits the default shall be liable to a fine not exceeding £5,000.

Power of court to fix remuneration on application of liquidator.

280. The court may, on an application made to the court by the liquidator of a company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the company, and may from time to time, on an application made either by the liquidator or by the receiver or manager, vary or amend any order so made.

Delivery to Financial Supervision Commission of accounts of receivers and managers.

281.(1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within one month, or such longer period as the Financial Supervision Commission may allow, after the expiration of the period of six months from the date of his appointment and of every subsequent period of six months and within one month after he ceases to act as receiver or manager, deliver to the Financial Supervision Commission for registration an abstract in the prescribed form showing his receipts and his payments during that period of six months, or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related (or, if no preceding abstract has been sent under this section, from the date of his appointment) up to the date of his so ceasing, and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment.

(2) Every receiver or manager who makes default in complying with the provisions of this section shall be liable to -

- (a)* on information, a fine;
- (b)* on summary trial, a fine not exceeding £5,000.

Enforcement of duty of receiver to make returns, etc.

282.(1) If -

- (a) any receiver of the property of a company, who has made default in filing, delivering or making any return, account or other document or in giving any notice, which a receiver is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so; or
- (b) any receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the company so to do, failed to render proper accounts of his receipts and payments and to pay over to the liquidator the amount properly payable to him;

the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order.

(2) In the case of any such default as is mentioned in paragraph (a) of the last preceding subsection an application for the purposes of this section may be made by any member or creditor of the company or by the Financial Supervision Commission, and the order may provide that all costs of and incidental to the application shall be borne by the receiver, and in the case of any such default as is mentioned in paragraph (b) of that subsection the application shall be made by the liquidator.

(2) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of such default as is mentioned in paragraph (a) of subsection (1) of this section.

PART VII - GENERAL PROVISIONS AS TO REGISTRATION

Registration to be made at the office for the registration of companies.

283. The registration of companies under this Act shall be made at the office of the registration of companies in the borough of Douglas, and conducted as follows -

- (i) The Treasury may make such regulations as it thinks fit with respect to the duties to be performed;
- (ii) The Financial Supervision Commission may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies;
- (iii) [*Repealed*];
- (iv) Any certificate of the incorporation of any company given by the Financial Supervision Commission shall be received in evidence as if it were the original certificate.

Financial Supervision Commission may prescribe fees payable.

283A.(1) The Financial Supervision Commission may, with the concurrence of the Treasury, by order prescribe the fees and duties which are to be paid -

- (a) under any provision of the relevant Acts;

- (b) in relation to the performance of any function by the Commission under, or with respect to, the relevant Acts;
- (c) in respect of the provision by the Commission of any service under or with respect to, the relevant Acts;
- (d) in respect of any matter relating to the relevant Acts in respect of which the Treasury could, immediately before the commencement of the Companies (Transfer of Functions) Act 2000, prescribe fees under the Fees and Duties Act 1989.

(2) In this section, the 'relevant Acts' means -

- (a) the Companies Acts 1931 to 1993;
- (b) [*repealed*];
- (c) the Companies (Transfer of Domicile) Act 1998.

(3) Any order made under this section shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve it, the order shall cease to have effect.

Power of Financial Supervision Commission to refuse to register or receive documents.

283B.(1) Subject to section 283C of this Act, a document shall be deemed not to have been submitted under this Act to the Financial Supervision Commission (whether by delivery, filing, production, forwarding, lodging, electronic filing in the prescribed format, or otherwise) until the time when it is accepted for registration or otherwise received by the Financial Supervision Commission.

(2) If in the opinion of the Financial Supervision Commission any document submitted to him under this Act -

- (a) contains any matter contrary to law; or
- (b) does not comply with this Act; or
- (c) has not been duly completed; or
- (d) contains any misdescription or error, or any matter that is not clearly legible; or
- (dd) is not furnished in such manner and conforming to such requirements as may reasonably be required for the purpose of enabling the processing and copying of the document; or
- (e) is not accompanied by the correct fee or duty,

it may refuse to accept for registration or otherwise receive the document, and it may request either that the document be appropriately amended or completed and submitted to it again or that a fresh document be submitted in its place or that the document be submitted again with the correct fee or duty.

(3) The Financial Supervision Commission may require any person who submits a document to it under this Act to produce to the Financial Supervision Commission such other document or to give to the Financial Supervision Commission such information as the Financial Supervision Commission considers necessary in order to form an

opinion whether the Financial Supervision Commission may refuse under subsection (2) of this section to accept for registration or to otherwise receive the document.

Appeals from decisions of Financial Supervision Commission.

283C.(1) Any person who is aggrieved by the refusal of the Financial Supervision Commission to register a company, or to register or receive any document submitted to him under this Act, or who is aggrieved by any other act or decision of the Financial Supervision Commission under this Act, may appeal to the court within 21 days after the date of the refusal or other act or decision, or within such further time as the court of summary jurisdiction may allow.

(2) On hearing the appeal, the court of summary jurisdiction may confirm the refusal or other act or decision of the Financial Supervision Commission, or give such directions or make such determination in the matter as the court of summary jurisdiction thinks fit.

(3) No right of appeal shall lie under this section against any act or decision of the Financial Supervision Commission -

- (a) in respect of which there is any express provision in this Act in the nature of an appeal or review; or
- (b) that is declared by this Act to be conclusive or final, or that is embodied in any document declared by this Act to be conclusive evidence of any act, decision, matter, or thing.

(4) Subject to subsection (5), notwithstanding any other provision of any enactment or any rule of law, where a person appeals or applies to the court in respect of an act or decision of the Financial Supervision Commission under section 283B of this Act, until a decision on the appeal or application is given, the Financial Supervision Commission, and any person authorised by it under that section for the purpose, may continue to exercise its powers under that section as if no such appeal or application had been made, and no person shall be excused from fulfilling his obligations under that section by reason of that appeal or application.

(5) To the extent that an appeal or application in respect of any such act or decision is allowed or granted, as the case may be -

- (a) the Financial Supervision Commission shall ensure that, forthwith after the decision on the appeal or application is given, all records made by it, or by a person authorised by it for that purpose, under section 283B of this Act in respect of that act or decision are destroyed or expunged; and
- (b) no information acquired under section 283B of this Act in respect of that act or decision shall be admissible in evidence in any proceedings.

Power of Financial Supervision Commission to accept information in non-document form.

284.(1) The Financial Supervision Commission may, if it thinks fit, under the provisions of the Companies Acts 1931 to 1992 requiring a document to be delivered to it, any material other than a document which contains the information in question and is of a kind approved by it.

(2) The delivery to the Financial Supervision Commission of material so accepted is sufficient compliance with the provision in question.

(3) In this section any reference to delivering a document includes filing, lodging, sending, forwarding, producing, or (in the case of a notice) giving it and includes delivering by electronic means of a kind approved by the Financial Supervision Commission.

(4) The Financial Supervision Commission may prescribe regulations for the electronic filing of any document required to be filed under the Companies Acts 1931 to 1993.

Inspection, production and evidence of documents kept by Financial Supervision Commission.

284A.(1) Any person may inspect -

- (a) a copy of any document, kept by the Financial Supervision Commission; or
- (b) if the copy is illegible or unavailable, the document itself,

on payment of such fees as may be prescribed under section 283A and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Financial Supervision Commission, on payment for the certificate, certified copy or extract, of such fees as may be prescribed under section 283A.

(2) No process for compelling the production of any document kept by the Financial Supervision Commission shall issue from any court except with the leave of that court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the court.

(3) A copy of or extract from any document kept and registered at any of the offices for the registration of companies, certified to be a true copy by the Financial Supervision Commission (whose official position it shall not be necessary to prove) shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

(4) In this section, a copy is to be treated as the copy of a document if it is taken from a copy or other reproduction of the original.

Enforcement of duty of company to make returns to Financial Supervision Commission.

285.(1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the Financial Supervision Commission any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company, requiring it to do so, the court may, on an application made to the court by any member or creditor of the company or by the Financial Supervision Commission, make an order directing the company and officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.

Exclusion of deemed notice.

285A.(1) A person shall not be taken to have notice of any matter merely because of its being disclosed in any document kept by the Financial Supervision Commission (and thus available for inspection) or made available by the company for inspection.

(2) This does not affect the question whether a person is affected by notice of any matter by reason of a failure to make such inquiries as ought reasonably to be made.

(3) In this section “document” includes any material which contains any information.

(4) Nothing in this section affects the operation of section 82A of this Act (under which a person taking a charge over a company’s property is deemed to have notice of matters disclosed on the companies charges register).

PART VIII - APPLICATION OF ACT TO COMPANIES FORMED OR REGISTERED UNDER FORMER ACTS

Application of Act to companies formed under former Companies Acts.

286. In the application of this Act to existing companies, it shall apply in the same manner -

- (a) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by shares;
- (b) in the case of a company limited by guarantee, as if the company had been formed and registered under this Act as a company limited by guarantee; and
- (c) in the case of a company other than a limited company, as if the company had been formed and registered under this Act as an unlimited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Clauses Act, the Companies Act, 1865, or the Companies (Consolidation) Act, 1910, as the case may be.

Application of Act to companies registered under former Companies Acts.

287. This Act shall apply to every company registered but not formed under the Joint Stock Companies Clauses Act, the Companies Act, 1865, or the Companies (Consolidation) Act, 1910, in the same manner as it is in Part IX of this Act declared to apply to companies registered but not formed under this Act:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Joint Stock Companies Clauses Act, the Companies Act 1865, or the Companies (Consolidation) Act, 1910, as the case may be.

Application of Act to companies registered under former Companies Acts.

288. This Act shall apply to every unlimited company registered as a limited company in pursuance of section

fifty-nine of the Companies (Consolidation) Act, 1910, in the same manner as it applies to an unlimited company registered in pursuance of this Act as a limited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered as a limited company under the said Act or said section, as the case may be.

Provision as to companies registered under the Joint Stock Companies Acts.

289.(1) A company registered under the Joint Stock Companies Clauses Act may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

(2) The power of altering articles under section ten of this Act shall, in the case of an unlimited company formed and registered under the Joint Stock Companies Clauses Act, extend to altering any regulations relating to the amount of capital or to its distribution into shares notwithstanding that those regulations are contained in the memorandum.

PART IX - COMPANIES NOT FORMED UNDER THIS ACT AUTHORISED TO REGISTER UNDER THIS ACT

Companies capable of being registered.

290.(1) With the exception and subject to the provisions contained in this section, -

- (a)* any company consisting of seven or more members, which was in existence on the fifth day of July, eighteen hundred and eighty-four, including any company registered under the Joint Stock Companies Clauses Act; and
- (b)* any company formed after the date aforesaid, whether before or after the commencement of this Act, in pursuance of any Act of Tynwald other than this Act, or of letters patent, or being otherwise duly constituted according to law, and consisting of seven or more members;

may at any time register under this Act as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up:

Provided that -

- (i)** A company registered under the Companies Act, 1865, or the Companies (Consolidation) Act, 1910, shall not register in pursuance of this section:
- (ia)** A limited liability company organised under the Limited Liability Companies Act 1996 shall not register in pursuance of this section:
- (ii)** A company having the liability of its members limited by Act of Tynwald or letters patent, and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section:
- (iii)** A company having the liability of its members limited by Act of Tynwald or letters patent shall not register in pursuance of this section as an unlimited

company or as a company limited by guarantee:

- (iv) A company that is not a joint stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares:
- (v) A company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose:
- (vi) Where a company not having the liability of its members limited by Act of Tynwald or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting:
- (vii) Where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(2) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.

Definition of joint stock company.

291. For the purposes of this Part of this Act, as far as it relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company when registered with limited liability under this Act shall be deemed to be a company limited by shares.

Requirements for registration by joint stock companies.

292. Before the registration in pursuance of this Part of this Act of a joint stock company there shall be delivered to the Financial Supervision Commission the following documents -

- (1) A list showing the names, addresses, and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (2) A copy of any Act of Tynwald, royal charter, letters patent, deed of settlement, contract of copartnership, cost book regulations, or other instrument constituting or regulating the company; and

- (3) If the company is intended to be registered as a limited company, a statement specifying the following particulars -
 - (a) The nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;
 - (b) The number of shares taken and the amount paid on each share;
 - (c) The name of the company with the addition of the word "limited" as the last word thereof; and
 - (d) In the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.

Requirements for registration by other than joint stock companies.

293. Before the registration in pursuance of this Part of this Act of any company not being a joint stock company, there shall be delivered to the Financial Supervision Commission -

- (1) A list showing the names, addresses, and occupations of the directors or other managers (if any) of the company; and
- (2) A copy of any Act of Tynwald, letters patent, deed of settlement, contract of copartnership, cost book regulations, or other instrument constituting or regulating the company; and
- (3) In the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.

Authentication of statements of existing companies.

294. The lists of members and directors and any other particulars relating to the company required to be delivered to the Financial Supervision Commission shall be verified by a statutory declaration of any two or more directors or other principal officers of the company.

Financial Supervision Commission may require evidence as to nature of company.

295. The Financial Supervision Commission may require such evidence as it thinks necessary for the purpose of satisfying itself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.

296. *[Repealed]*

Addition of "limited" to name.

297. When a company registers in pursuance of this Part of this Act with limited liability, the word “limited” shall form and be registered as part of its name.

Certificate of registration of existing companies.

298. On compliance with the requirements of this Part of this Act with respect to registration, and on payment of such fees, if any, as are prescribed under section 283A, the Financial Supervision Commission shall certify that the company applying for registration is incorporated as a company under this Act, and in the case of a limited company that it is limited, and thereupon the company shall be so incorporated.

Vesting of property on registration.

299. All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this Part of this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

Saving for existing liabilities.

300. Registration of a company in pursuance of this Part of this Act shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.

Legal proceedings.

301. All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part of this Act are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place:

Provided that execution shall not issue against the effects of any individual member of the company on any judgment, decree, or order obtained in any such action or proceeding, but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company.

Effect of registration under Act.

302.(1) When a company is registered in pursuance of this Part of this Act the following provisions of this section shall have effect.

(2) All provisions contained in any Act of Tynwald or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Act, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained

in registered articles.

(3) All the provisions of this Act shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject as follows -

- (a) Table A shall not apply unless adopted by special resolution;
- (b) The provisions of this Act relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered;
- (c) Subject to the provisions of this section the company shall not have power to alter any provision contained in any Act of Tynwald relating to the company;
- (d) Subject to the provisions of this section the company shall not have power, without the sanction of the Council of Ministers, to alter any provisions contained in any letters patent relating to the company;
- (e) The company shall not have power to alter any provision contained in a royal charter or letters patent with respect to the objects of the company;
- (f) In the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;
- (g) In the event of the company being wound up, every contributory shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid, and, in the event of the death, bankruptcy, or insolvency, of any contributory, or marriage of any female contributory, the provisions of this Act with respect to the personal representatives of deceased contributories, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.

(4) The provisions of this Act, with respect to -

- (a) the registration of an unlimited company as limited;
- (b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up;
- (c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up;

shall apply notwithstanding any provisions contained in any Act of Tynwald, royal charter, or other instrument constituting or regulating the company.

(5) Nothing in this section shall authorise the company to alter any such provisions contained in any instrument constituting or regulating the company, as would, if the company had originally been formed under this Act, have been required to be contained in the memorandum and are not authorised to be altered by this Act.

(6) Nothing in this Act shall derogate from any power of altering its constitution or regulations which may by virtue of any Act of Tynwald or other instrument constituting or regulating the company, be vested in the company.

(7) In this section the expression “instrument” includes deed of settlement, contract of copartnership, cost book regulations and letters patent.

Power to substitute memorandum and articles for deed of settlement.

303.(1) Subject to the provisions of this section, a company registered in pursuance of this Part of this Act may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

(2) The provisions of this Act with respect to confirmation by the court and registration of an alteration of the objects of a company shall so far as applicable apply to an alteration under this section with the following modifications -

(a) There shall be substituted for the printed copy of the altered memorandum required to be delivered to the Financial Supervision Commission a printed copy of the substituted memorandum and articles; and

(b) On the registration of the alteration being certified by the Financial Supervision Commission the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Act with that memorandum and those articles, and the company’s deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Act.

(4) In this section the expression “deed of settlement” includes any contract of copartnership or other instrument constituting or regulating the company, not being an Act of Tynwald, a royal charter, or letters patent.

Power of court to stay or restrain proceedings.

304. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of a company registered in pursuance of this Part of this Act, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions stayed on winding up order.

305. Where an order has been made for winding up a company registered in pursuance of this Part of this Act no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

PART X - WINDING UP OF UNREGISTERED COMPANIES

Meaning of unregistered company.

306. For the purposes of this Part of this Act the expression “unregistered company” shall include any partnership, whether limited or not, any association and any company with the following exceptions -

- (1) a railway company incorporated by Act of Tynwald;
- (2) a company registered under the Joint Stock Companies Clauses Act or under the Companies Act, 1865, or under the Companies (Consolidation) Act, 1910, or under this Act;
- (3) a partnership, association, or company which consists of less than eight members and is not a foreign partnership, association or company.

Winding up of unregistered companies.

307.(1) Subject to the provisions of this Part of this Act, any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions -

- (a) No unregistered company, other than a company established under separate Act of Tynwald, shall be wound up under this Act voluntarily or subject to supervision:
- (b) The circumstances in which an unregistered company may be wound up are as follows -
 - (i) If the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;
 - (ii) If the company is unable to pay its debts;
 - (iii) If the court is of opinion that it is just and equitable that the company should be wound up:
- (c) An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts -
 - (i) If a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding fifty pounds then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for three weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;
 - (ii) If any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same

in such manner as the court may approve or direct, the company has not within ten days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same;

(iii) If execution or other process issued on a judgment, decree, or order obtained in any court in favour of a creditor against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied;

(iv) If it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts;

(d) In the case of a limited partnership the provisions of this Act with respect to winding up shall apply with such modifications, if any, as may be provided by rules made by the Treasury, and with the substitution of general partners for directors.

(2) Where a company incorporated outside the Isle of Man which has been carrying on business in the Isle of Man ceases to carry on business in the Isle of Man, it may be wound up as an unregistered company under this Part of this Act, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated.

(3) Nothing in this Part of this Act shall affect the operation of any enactment which provides for any partnership, association, or company, being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by this Act, except that references in any such first-mentioned enactment to any such repealed enactment shall be read as references to the corresponding provision (if any) of this Act.

Contributories in winding up of unregistered company.

308.(1) In the event of an unregistered company being wound up every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of the death, bankruptcy, or insolvency, of any contributory, or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, of deceased contributories, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.

Power of court to stay or restrain proceedings.

309. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions stayed on winding up order.

310. Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

Provisions of this Part of Act cumulative.

311. The provisions of this Part of this Act with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding up companies by the court, and the court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act:

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part of this Act.

PART XI - COMPANIES INCORPORATED OUTSIDE THE ISLE OF MAN CARRYING ON BUSINESS WITHIN THE ISLE OF MAN

Companies to which Part XI applies.

312.(1) This Part of this Act shall apply, subject to such exemptions as may by regulation be prescribed by the Treasury, to all companies (including limited liability companies) incorporated outside the Isle of Man which, after the commencement of this Act, establish a place of business within the Isle of Man, and to all companies incorporated outside the Isle of Man which have, before the commencement of this Act, established a place of business within the Isle of Man and continue to have an established place of business within the Isle of Man at the commencement of this Act.

(2) For the purposes of this Part and without prejudice to the generality of subsection (1), a company shall be deemed to have established a place of business in the Isle of Man if the company -

- (a) holds land in the Island (other than by way of security); or
- (b) carries out directly or indirectly such activities as may by regulation be prescribed by the Treasury.

Documents, etc., to be delivered to Financial Supervision Commission by companies carrying on business in Isle of Man.

313.(1) Companies incorporated outside the Isle of Man which, after the commencement of this Act, establish a place of business within the Isle of Man, shall within one month from the establishment of the place of business, deliver to the Financial Supervision Commission for registration -

- (a) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company and, if the instrument is not written in the English language, a certified translation thereof;

- (b) a list of the directors and secretaries (if any) of the company, containing such particulars with respect to the directors and secretaries (if any) as are by this Act required to be contained with respect to directors and secretaries (if any) in the register of the directors of a company;
- (c) the names and addresses of some one or more persons resident in the Isle of Man authorised to accept on behalf of the company service of process and any notices required to be served on the company.

(2) The following companies, namely -

companies incorporated outside the Isle of Man which, before the 27th day of September, 1910, established a place of business and at the commencement of this Act continue to have a place of business within the Isle of Man;

shall within one month from the commencement of this Act, deliver to the Financial Supervision Commission for registration the documents and particulars specified in the last foregoing subsection.

(3) Companies to which this Part of this Act applies, other than the companies mentioned in subsections (1) and (2) of this section, shall, if at the commencement of this Act they have not delivered to the Financial Supervision Commission the documents and particulars specified in paragraphs (a), (b), and (c) of subsection (1) of section two hundred and fifty-two of the Companies (Consolidation) Act, 1910, as amended by the Companies (Particulars as to Directors) Act, 1918, continue subject to the obligation to deliver those documents and particulars in accordance with the said Acts.

Regulation of overseas companies in respect of their names.

313A.(1) If it appears to the Financial Supervision Commission that the corporate name of an overseas company is a name by which the company, had it been formed under this Act, would on the relevant date (defined in subsection (2)) have been precluded from being registered by section 17 of this Act because the Financial Supervision Commission would not approve the company's being registered with that name, the Financial Supervision Commission may serve a notice on the company, stating why the name would not have been registered.

(2) No notice shall be served on a company under subsection (1) later than 12 months after the relevant date, being the date on which the company has complied with -

- (a) section 313 of this Act, or
- (b) if there has been a change in the company's corporate name, section 315.

(3) An overseas company on which a notice is served under subsection (1) -

- (a) may deliver to the Financial Supervision Commission for registration a statement in the prescribed form specifying a name approved by the Financial Supervision Commission (other than its corporate name) under which it proposes to carry on business in the Isle of Man, and
- (b) may, after that name has been registered, at any time deliver to the Financial Supervision Commission for registration a statement in the prescribed form specifying a name approved by the Financial Supervision Commission (other than its corporate name) in substitution for the name previously registered.

(4) The name by which an overseas company is for the time being registered under subsection (3) is, for all purposes of the law applying in the Isle of Man, deemed to be the company's corporate name; but -

- (a) this does not affect references to the corporate name in this section, or any rights or obligations of the company, or render defective any legal proceedings by or against the company, and
- (b) any legal proceedings that might have been continued or commenced against the company by its corporate name or its name previously registered under this section may be continued or commenced against it by its name for the time being so registered.

(5) An overseas company on which a notice is served under subsection (1) shall not at any time after the expiration of 2 months from the service of that notice (or such longer period as may be specified in that notice) carry on business in the Isle of Man under its corporate name.

Nothing in this subsection, or in subsection (7) invalidates any transaction entered into by the company.

(6) The Financial Supervision Commission may withdraw a notice served under subsection (1) at any time before the end of the period mentioned in subsection (5); and that subsection does not apply to a company served with a notice which has been withdrawn.

(7) If an overseas company contravenes subsection (5), the company and every officer or agent of it who knowingly and wilfully authorises or permits the contravention is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(8) In this section, "overseas company" means a company to which this Part of this Act applies.

(9) *[Repealed]*

Power of companies incorporated outside the Isle of Man to hold lands.

314.(1) A company incorporated outside the Isle of Man shall have the same power to hold lands in the Isle of Man as if it were a company incorporated under this Act.

(2) *[Repealed]*

Return to be delivered to Financial Supervision Commission where documents, etc., altered.

315. If in the case of any company to which this Part of this Act applies any alteration is made in -

- (1) the charter, statutes, or memorandum and articles of the company or any such instrument as aforesaid; or
- (2) the directors and secretaries (if any) of the company or the particulars contained in the list of directors and secretaries (if any); or
- (3) the names or addresses of the persons authorised to accept service on behalf of the company,

the company shall, within the prescribed time, deliver to the Financial Supervision Commission for registration a return containing the prescribed particulars of the alteration.

316. [Repealed]

Obligation to state name of company, whether limited, and country where incorporated.

317. Every company to which this Part of this Act applies shall-

- (1) in every prospectus inviting subscriptions for its shares and debentures in the Isle of Man state the country in which the company is incorporated; and
- (2) conspicuously exhibit on every place where it carries on business in the Isle of Man the name of the company and the country in which the company is incorporated; and in the case of a company administered by the holder of a licence under the Corporate Service Providers Act 2000, this subsection shall be deemed to be satisfied by the conspicuous display of a notice at the address at which that company carries on its business and is administered stating that members of the public are invited to inspect during business hours a list of companies carrying on business at such address together with their countries of incorporation; and
- (3) cause the name of the company and of the country in which the company is incorporated to be stated in legible characters in all bill-heads and letter paper, and in all notices, advertisements, and other official publications of the company; and
- (4) if the liability of the members of the company is limited, cause notice of the fact to be stated in legible characters in every such prospectus as aforesaid and in all official documents, including communications sent electronically, on or in which the company's name appears and which are issued or sent by the company to any person in the Isle of Man or elsewhere, and to be stated at every place where it carries on its business.

Service on company to which Part XI applies.

318. Any process or notice required to be served on a company to which this Part of this Act applies shall be sufficiently served if addressed to any person authorised by the company to accept service of process under section 313(1)(c) whose name has been delivered to the Financial Supervision Commission and left at or sent by post to the address which has been so delivered -

Provided that -

- (1) where any such company makes default in delivering to the Financial Supervision Commission the name and address of a person resident in the Isle of Man who is authorised to accept on behalf of the company service of process or notices, or
- (2) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served,

a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in the Isle of Man.

Office where documents to be filed.

319.(1) Any document which any company to which this Part of this Act applies is required to deliver to the Financial Supervision Commission, shall be delivered to the Financial Supervision Commission at the registry office for companies.

(2) If any company to which this Part of this Act applies ceases to have a place of business in the Isle of Man, it shall forthwith give notice of the fact to the Financial Supervision Commission, and as from the date on which notice is so given the obligation of the company to deliver any document to the Financial Supervision Commission shall cease.

Financial Supervision Commission may strike defunct, etc. foreign companies off register.

319A.(1) Where the Financial Supervision Commission has reasonable cause to believe that a company to which this Part of this Act applies does not have an established place of business in the Isle of Man, it may send to the company by post a letter inquiring whether the company does have such a place of business.

(2) If the Financial Supervision Commission does not within one month of sending the letter receive any answer, it shall within 14 days after the expiration of the month send to the company by post a letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from its date, a notice will be published with a view to striking the name of the company off the register.

(3) If the Financial Supervision Commission either receives an answer to the effect that the company does not have an established place of business, or does not hold lands in the Isle of Man, or does not within one month after sending the second letter receive any answer, it may publish in the like manner, and send to the company by post a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register.

(4) At the expiration of the time mentioned in the notice the Financial Supervision Commission may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish a notice thereof.

(5) **(a)** For the purposes of subsections (1) to (3) above, letters and notices to a company shall be addressed to each of the addresses last notified to the Financial Supervision Commission under section 313(1)(e).

(b) For the purposes of subsections (2) to (4) above, a notice shall be considered published-

(i) by publishing a notice in one edition of a newspaper published and circulating in the Isle of Man; and

(ii) by publishing a notice on the Financial Supervision Commission website for a minimum period of one month; and

(iii) by the Financial Supervision Commission maintaining a current list in the prescribed form and with the prescribed particulars of all companies in respect

of which notice has been published and by making such list available for inspection by any person.

Penalties.

320. If any company to which this Part of this Act applies fails to comply with any of the foregoing provisions of this Part of this Act the company, and every officer or agent of the company, shall be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Interpretation of Part XI.

321. For the purposes of this Part of this Act -

The expression “certified” means certified in the prescribed manner to be a true copy or a correct translation;

The expression “company incorporated outside the Isle of Man” does not include -

- (a) a building society established in the United Kingdom under any enactment of Parliament relating to building societies;
- (b) a friendly society registered under any enactment of Parliament relating to friendly societies;

The expression “director” in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

“limited liability company” means a company which corresponds to a limited liability company organised under the Limited Liability Companies Act 1996;

The expression “prospectus” has the same meaning as when used in relation to a company incorporated under this Act.

PART XII - RESTRICTIONS ON SALE OF SHARES AND OFFERS OF SHARES FOR SALE

322. *Repealed*

323. *Repealed*

323A. *Repealed*

323B. *Repealed*

323C. *Repealed*

323D. *Repealed*

323E. *Repealed*

324. *Repealed*

Exemptions from prospectus requirements

324A.(1) The Treasury may by regulations make provision for exemption from, or for the modification of -

- (a) sections 34 to 39 of this Act;
- (b) such other provisions of the Companies Acts 1931 to 2004 as relate to prospectuses,

in respect of such classes of companies or in such circumstances as may be specified in the regulations.

(2) Regulations under this section shall not come into operation unless they are approved by Tynwald.

PART XIII - MISCELLANEOUS

Dispensations for Private Companies.

Power to provide dispensation by regulation.

324B.(1) The Treasury may by regulations enable private companies to elect to dispense with compliance with such requirements of the Companies Acts 1931 to 1992 as may be specified in the regulations, being requirements which appear to the Treasury to relate primarily to-

- (a) the holding and conduct of meetings of companies;
- (b) the preparation and keeping of accounts of companies and the audit of such accounts;
- (c) the internal administration and procedure of companies.

(2) The regulations shall include provision to enable a member of a company-

- (a) to prevent an election by the company under subsection (1);
- (b) to require the company to suspend or rescind any election under subsection (1),

and may provide that the company and every officer who is in default in relation to such provision shall be liable to a default fine under section 330 of the 1931 Act.

(3) The regulations may add to, modify or repeal provisions of the Companies Acts 1931 to 1992; and may provide for any such provision to have effect, where an election is made, subject to such adaptations and modifications as appear to the Treasury to be appropriate.

- (4) The regulations may contain such supplementary, incidental and transitional provisions as appear to the Treasury to be appropriate.
- (5) Regulations under this section shall not come into operation unless they are approved by Tynwald.

Prohibition of Partnerships with more than Twenty Members.

Prohibition of partnerships with more than twenty members.

325.(1) No company, association, or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other Act of Tynwald, or of letters patent.

- (2) Subsection (1) does not prohibit the formation -
- (a) for the purpose of carrying on practice as advocates, of a partnership consisting of persons each of whom is an advocate;
 - (b) for the purpose of carrying on practice as accountants, of a partnership consisting of persons each of whom falls within paragraph (a) of section 14(1) of the Companies Act 1982;
 - (c) for the purpose of carrying on business as members of a stock exchange, of a partnership consisting of persons each of whom is a member of that stock exchange.
- (3) The Treasury may, by regulations provide that subsection (1) above shall not apply to the formation for a purpose specified in regulations, of a partnership of description so specified.
- (4) Regulations made under subsection (3) above shall not come into operation until they have been approved by Tynwald.

Miscellaneous Offences.

Penalty for false statement.

326. If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the Tenth Schedule hereto, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanour, and shall be liable on conviction to imprisonment for a term not exceeding two years and on summary conviction to imprisonment for a term not exceeding four months and in either case to a fine in lieu of or in addition to such imprisonment as aforesaid:

Provided that the fine imposed on summary conviction shall not exceed £5,000.

Perjury.

327. If any person, on examination on oath authorised under this Act or in any affidavit or deposition in or about

the winding up of any company or otherwise in or about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall be liable to the penalties for wilful perjury.

Penalty for improper use of word “Limited”.

328. If any person or persons trade or carry on business under any name or title of which “Limited” or any contraction or imitation of that word, is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to -

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.

Forging seal, etc., of Financial Supervision Commission or of company shall be felony.

329. If any person shall forge the seal, stamp, or signature of the Financial Supervision Commission to any certificate, document or proceeding, or entry required of any corporation or joint stock or other company required by this Act to be, or which shall be, verified by the seal, stamp, or signature of the registrar, or any certified copy of any document, bye-law, entry in any register or other book, or other proceedings, as aforesaid, or shall tender in evidence any such certificate, entry, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye-law, entry in any register or other book, or of any other proceeding with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false, or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established under or registered under this Act, every such person shall be guilty of felony, and shall be proceeded against according to the law and practice of this Isle in cases of felony, and shall, upon conviction, be liable to penal servitude for seven years, or to imprisonment for any term not more than three years.

General Provisions as to Offences.

Provision with respect to default fines and meaning of “officer in default”.

330.(1) Where any provision of this Act provides that a company or officer of a company (or both) shall be liable to a default fine, the company or officer (or both) shall be liable -

- (a) if the said provision specifies the amount of a fine, to a fine not exceeding that amount; or
- (b) if the said provision specifies the amount of a fine in respect of continued default, refusal or contravention, to a fine not exceeding that amount for every day during which such default, refusal or contravention continues; or
- (c) if the amount of a fine is not so specified -
 - (i) on information, to a fine;
 - (ii) on summary trial, to a fine not exceeding £5,000.

(2) For the purpose of any enactment in this Act which provides that an officer of a company who is in default

shall be liable to a fine or penalty, the expression “officer who is in default” means any director, manager, secretary or other officer of the company, who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

Prosecution of offences punishable by fine.

331.(1) Where a person committing an offence under this Act is made liable to a fine, he shall be liable thereto on summary conviction.

(2) A court of summary jurisdiction shall not hear a complaint for such an offence unless the complaint was made within 3 years after the commission of the offence.

331A. *[Repealed]*

Application of fines.

332. The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction all fines under this Act shall, notwithstanding anything in any other Act, be paid into the General Revenue of this Isle.

Saving as to private prosecutors.

333. Nothing in this Act relating to the institution of criminal proceedings by the Attorney General shall be taken to preclude any person from instituting or carrying on any such proceedings.

Saving for privileged communications.

334. Where proceedings are instituted under this Act against any person by the Attorney General, nothing in this Act shall be taken to require any person who acted as advocate for the defendant to disclose any privileged communication made to him in that capacity.

Service of Documents and Legal Proceedings.

Service of documents on company.

335. A document may be served on a company by leaving it at or sending it by post to the registered office of the company.

Service of documents on company.

335A.(1) Where this section applies to a company, a document may be served on it by sending a copy of the document by post to each person who, on the date on which the document is sent, is shown as a director of the company in the documents kept by the Financial Supervision Commission.

(2) This section applies to a company where the person having control of the premises at which the company purports to have its registered office has delivered to the Financial Supervision Commission a notice in the prescribed form stating that the company does not have authority to maintain its registered office at the premises.

Costs in actions by certain limited companies.

336. Where a limited company is plaintiff or pursuer in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of court to grant relief in certain cases.

337.(1) If in any proceeding for negligence, default, breach of duty, or breach of trust against a person to whom this section applies it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) Where any case to which subsection (1) of this section applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

(4) The persons to whom this section applies are the following -

- (a) directors of a company;
- (b) managers of a company;
- (c) officers of a company;
- (d) persons employed by a company as auditors, whether they are or are not officers of the company.

Power to enforce orders.

338. Orders made by the court under this Act may be enforced in the same manner as orders made in an action pending therein.

Proceedings in Chambers.

339. Any judge of the High Court may do in Chambers any act which the court is by this Act authorised to do.

Power to alter tables and forms.

340.(1) The Financial Supervision Commission may alter Table A, the form in the Seventh Schedule and may alter or add to Tables B, C, D and E in the First Schedule, and the forms in the Sixth Schedule to this Act.

(2) Any such table or form, when altered, shall be published in a newspaper published and circulating in the Isle of Man, and thenceforth shall have the same force as if it were included in one of the Schedules to this Act, but no alteration made by the Financial Supervision Commission in Table A shall affect any company registered before the alteration, or repeal, as respects that company, of any portion of that Table.

Prescribed forms.

340A.(1) The Financial Supervision Commission may prescribe forms for use with any provision of the Companies Acts 1931-1993 and may by regulations specify the form of, the information to be included in and the mode of certification or verification of, such prescribed forms.

(2) Unless a provision of the Companies Acts 1931-1993 otherwise requires, regulations under this section shall be laid before Tynwald.

Public documents.

340B. Except where otherwise expressly provided, a public document made by the Financial Supervision Commission under the Companies Acts 1931-1993 shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which such public document is laid or at the next following sitting resolves that the public document shall be annulled, the public document shall thereupon cease to have effect.

Interpretation.

Interpretation.

341.(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them (that is to say) -

“Annual return” means the return required to be made under section 109 of this Act;

“Articles” means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained (as the case may be) in Table B in the Schedule annexed to the Joint Stock Companies Clauses Act, or in Table A in the First Schedule annexed to the Companies Act, 1865, or in that Table as altered in pursuance of section sixty-nine of the last mentioned Act, or in Table A in the First Schedule to the Companies (Consolidation) Act, 1910, or in that Table as altered in pursuance of section one hundred and seventy-two of the last mentioned Act, or in Table A in the First Schedule to this Act;

“Book and paper” and “book or paper” include accounts, deeds, writings, and documents.

“Company” means a company formed and registered under this Act or an existing company;

“Existing company” means a company formed and registered under the Joint Stock Companies Clauses Act, the Companies Act 1865, or the Companies (Consolidation) Act, 1910;

“The court” used in relation to a company means the Chancery Division of the High Court of Justice;

“Debenture” includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;

“Director” includes any person occupying the position of director by whatever name called;

“Document” includes summons, notice, order, and other legal process, and registers;

“General rules” means general rules made under section two hundred and seventy-six of this Act, and includes forms;

“Memorandum” means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment;

“Officer”, in relation to a body corporate, includes a director, manager or secretary;

“Prescribed” means except in relation to a prescribed form, prescribed by regulations under section 22 of the Companies Act 1974 or rules of court;

“Prescribed form” means a form prescribed under section 340A;

“Prospectus” means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase any shares or debentures of a company;

“Public company” means a company that is not a private company;

“The registrar of companies” [*Repealed*];

“Share” means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied and references in this Act to shares include reference to cell shares unless the context requires otherwise;

“Table A” means Table A in the First Schedule to this Act;

“The United Kingdom” means Great Britain and Northern Ireland.

(2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

Interpretation: public offers.

342.(1) Any reference in this Act to offering shares or debentures to the public shall be construed in accordance with this section.

(2) Any reference in this Act, or in a company's articles of association, to an invitation to subscribe for shares or debentures shall be similarly construed.

(3) Any reference to the public includes, unless the context otherwise requires, any section of the public, whether selected -

- (a) as members or debenture holders of the company concerned; or
- (b) as clients of the person issuing the prospectus; or
- (c) in any other manner,

but subject to subsection (4) of this section.

(4) An offer or invitation shall not be construed as made to the public by reason only that it is made -

- (a) to existing members of the company concerned and relates to shares in, or debentures of, that company;
- (b) to existing or former employees of –
 - (i) that company;
 - (ii) that company's subsidiary or holding company; or
 - (iii) a subsidiary of that company's holding company;
- (c) to members of the family of such members or employees;
- (d) to existing debenture holders of that company and relates to shares in, or debentures of, that company; or
- (e) where application has been made for admission of any securities to the official list of a prescribed stock exchange, to a person whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent.

(5) An offer or invitation which falls within any of paragraphs (a) to (d) of subsection (4) of this section may be made on terms which permit the person to whom it is made to renounce his right to the allotment of shares or issue of debentures, but only in favour of such other person as is mentioned in those paragraphs.

(6) In this section, the members of a person's family are -

- (a) the person's husband or wife, widow or widower and children (including stepchildren) and their descendants; and
- (b) any other person who is substantially maintained by such member or employee; or
- (c) any trustee (acting in his capacity as such) of a trust the principal beneficiary of which is the person himself or herself, or any of those relatives or dependents.

Savings, Extent, Short Title and Commencement.

Savings.

343. Nothing in this Act shall affect -

- (1) The incorporation of any company registered under any enactment hereby repealed;
- (2) Table B in the schedule annexed to the Joint Stock Companies Clauses Act, or any part thereof, so far as the same applies to any company existing at the commencement of this Act;
- (3) Table A in the First Schedule annexed to the Companies Act, 1865, or any part thereof, either as originally contained in that schedule or as altered in pursuance of section sixty-nine of that Act, so far as the same applies to any company existing at the commencement of this Act;
- (4) Table A in the First Schedule to the Companies (Consolidation) Act, 1910, or any part thereof, either as originally contained in that Schedule or as altered in pursuance of section one hundred and twenty-two of that Act, so far as the same applies to any company existing at the commencement of this Act.

Saving of pending proceedings for winding up.

344. The provisions of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not passed, and, for the purposes of the winding up, the Act or Acts under which the winding up commenced shall be deemed to remain in full force.

Short title and commencement.

345.(1) This Act may be cited as the Companies Act 1931.

(2) This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald, and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

SCHEDULES

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations -

“The Act” means the Companies Act 1931.

When any provision of the Act is referred to the reference is to that provision as modified by any statute for the time being in force.

Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined.

Shares.

2. Subject to the provisions, if any, in that behalf of the memorandum of association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the company, is liable to be redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class, and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company or under the official seal kept by the company by virtue of section 2 of the Stock Exchange (Completion of Bargains) (Isle of Man) Act 1979 specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding 5p, and on such terms, if any, as to evidence and indemnity as the directors think fit.

6. No part of the funds of the company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 45(1) of the Act.

Lien.

7. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.

8. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to shares at the date of the sale.

Calls on Shares.

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may

(until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding six per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve -

I, _____, of _____, in consideration of the sum of £ _____ paid to me by _____, of _____ (hereinafter called "the said transferee") do hereby transfer to the said transferee the share [*or shares*] numbered _____ in the undertaking called the _____ Company, Limited, to hold unto the said transferee, subject to the several conditions on which I hold the same: and I, the said transferee, do hereby agree to take the said share [*or shares*] subject to the conditions aforesaid. As witness our hands the _____ day of _____

Witness to the signatures of, etc.

19. The directors may decline to register any transfer of shares, not being fully paid shares, to any person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of a transfer unless -

- (a) a fee not exceeding 13p is paid to the company in respect thereof, and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

20. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or the survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

- 23.** If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- 24.** The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
- 25.** If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.
- 26.** A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.
- 27.** A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receives payment in full of the nominal amount of the shares.
- 28.** A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of, and he shall thereupon be registered as the holder of the share, and shall not be bound to see the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
- 29.** The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

- 30.** The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.
- 31.** The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.
- 32.** The holders of stock shall, according to the amount of the stock held by them, have the same rights,

privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words “share” and “shareholder” therein shall include “stock” and “stockholder”.

Alteration of Capital.

34. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the company in general meeting, all new shares shall, before issue, be offered to such persons as the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an imitation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

37. The company may by ordinary resolution -

- (a) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) Sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 50(1)(d) of the Act;
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The company may by special resolution reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorised, and consent required, by law.

General Meetings.

39. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place within the Isle of Man or the United Kingdom as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company’s incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened

by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extra-ordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 113 of the Act. If at any time there are not within the Isle of Man or United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

42. Subject to the provisions of section 116(2) of the Act relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of the meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, two members personally present shall be a quorum.

46. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

48. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote or by one member of two members so present and entitled, if that member or those two members together hold not less than 15 per cent of the paid up capital of the company, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

53. A poll is demanded on the election of a chairman or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by that court, and any such committee, curator bonis, or other person may, on a poll, vote by proxy.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

58. On a poll votes may be given either personally or by proxy.

59. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting, at which the

person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve -

“ Company, Limited.

I, , of , in the county of , being a member of the Company, Limited, hereby appoint , of as my proxy, to vote for me and on my behalf at the [ordinary *or* extraordinary, *as the case may be*] general meeting of the company to be held on the day of and at any adjournment thereof.”

Signed this day of

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

63. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers to the memorandum of association.

65. The remuneration of the directors shall from time to time be determined by the company in general meeting.

66. The qualification of a director shall be the holding of at least one share in the company.

Powers and Duties of Directors.

67. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not, by the Act, or by these articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

68. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits,

or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation or retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

69. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

70. The directors shall cause minutes to be made in books provided for the purpose -

- (a) Of all appointments of officers made by the directors;
- (b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) Of all resolutions and proceedings at all meetings of the company; and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book kept for that purpose.

The Seal.

71. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

72. The office of director shall be vacated if the director -

- (a) ceases to be a director by virtue of section 141 of the Act; or
- (b) without the consent of the company in general meeting holds any other office of profit under the company except that of managing director or manager; or
- (c) becomes bankrupt; or
- (d) becomes prohibited from being a director by reason of any order made under section 208 or 259 of the Act; or
- (e) is found lunatic or becomes of unsound mind; or
- (f) resigns his office by notice in writing to the company; or
- (g) is directly or indirectly interested in any contract with the company or participates in the

profits of any contract with the company:

Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation which has entered into contracts with or done any work for the company if he shall have declared the nature of his interest in manner required by section 148 of the Act, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does vote his vote shall not be counted.

Rotation of Directors.

73. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

74. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day as those to retire shall (unless they otherwise agree among themselves) be determined by lot.

75. A retiring director shall be eligible for re-election.

76. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto, and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

77. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

78. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

79. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

80. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

81. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

82. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed, shall when the number of directors exceeds three be three, and when the number of directors does not exceed three, be two.

83. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

84. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

85. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

86. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

87. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

88. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

89. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

90. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

91. No dividend shall be paid otherwise than out of profits.

92. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

93. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

94. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

95. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled thereto, or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders as the case may be may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders as the case may be may direct.

96. No dividend shall bear interest against the company.

Accounts

97. The directors shall cause proper books of accounts to be kept with respect to -

All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

All sales and purchases of goods by the company; and

The assets and liabilities of the company.

98. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

99. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

100. The directors shall from time to time in accordance with section 2 of the Companies Act 1982, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

101. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors' report shall, not less than seven days before the date of the meeting, be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

102. Auditors shall be appointed and their duties regulated in accordance with sections 12, 14 and 15 of the Companies Act 1982.

Notices.

103. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within the Isle of Man or the United Kingdom) to the address, if any, within the Isle of Man or United Kingdom supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying, and posting a letter containing the notice, and to have been effected, in the case of a notice of a meeting, at the expiration of twenty-four hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

104. If a member has no registered address within the Isle of Man or United Kingdom and has not supplied to the company an address within the Isle of Man or United Kingdom for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

105. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

106. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address if any, within the Isle of Man or the United Kingdom supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

107. Notice of every general meeting shall be given in some manner hereinbefore authorised to (a) every member except those members who (having no registered address within the Isle of Man or United Kingdom) have not supplied to the company an address within the Isle of Man or United Kingdom for the giving of notices to them, and also to (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

1st. The name of the company is "The Eastern Steam Packet Company, Limited."

2nd. The registered office of the company will be situate in the Isle of Man.

3rd. The objects for which the company is established are, the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. The share capital of the company is two hundred thousand pounds divided into one thousand shares of two hundred pounds each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers

Number of Shares taken by each Subscriber

1. John Jones, of merchant.....	in the parish of ,	200
2. John Smith, of merchant.....	in the town of ,	25
3. Thomas Green, of merchant.....	in the county of ,	30
4. John Thompson, of merchant.....	in the county of ,	40
5. Caleb White, of merchant.....	in the county of ,	15
6. Andrew Brown, of merchant.....	in the county of ,	5
7. Caesar White, of merchant.....	in the county of ,	10
	Total Shares taken	325

Dated the _____ day of _____ 19____

Witness to the above signatures,

A. B., No 13 Hope Street, Castletown

TABLE C.

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION

OF A COMPANY LIMITED BY GUARANTEE, AND NOT

HAVING A SHARE CAPITAL.

MEMORANDUM OF ASSOCIATION.

1st. The name of the company is "The Kent School Association, Limited".

2nd. The registered office of the company will be situate in the Isle of Man.

3rd. The objects for which the company is established are the carrying on a school for boys in the county of Kent and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers

1. John Jones, of	in the parish of	Schoolmaster
2. John Smith, of	in the town of	Schoolmaster
3. Thomas Green, of	in the county of	Schoolmaster
4. John Thompson, of	in the county of	Schoolmaster
5. Caleb White, of	in the county of	Schoolmaster
6. Andrew Brown, of	in the county of	Schoolmaster
7. Caesar White, of	in the county of	Schoolmaster

Dated the _____ day of _____ 19____

Witness to the above signatures,

A.B., No.13, Hope Street, Castletown

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION

1. In these regulations -

“The Act” means the Companies Act 1931.

When any provision of the Act is referred to, the reference is to such provision as modified by any statute for the time being in force.

Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined.

Members.

2. The number of members with which the company proposes to be registered is 500, but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

General Meetings.

4. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

7. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists as provided by section 113 of the Act. If at any time there are not within the Isle of Man or United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

8. Subject to the provisions of section 116(2) of the Act relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

13. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

14. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

15. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least two members present in person or by proxy entitled to vote and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

17. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

18. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

19. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

20. Every member shall have one vote.

21. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by that court, and any such committee, curator bonis, or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under the seal or under the hand of an officer or attorney so authorised. A proxy need not be a member of the company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

26. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve -

“ Company, Limited.

I, of in the county of being a member of the Company, Limited, hereby appoint
 of as

my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, *as the case may be*] general meeting of the company to be held on the day of , and at any adjournment thereof.”

Signed this day of

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

28. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

29. The number of directors and the names of the first directors shall be determined in writing by a majority of the subscribers to the memorandum.

30. The remuneration of the directors shall from time to time be determined by the company in general meeting.

Powers and Duties of Directors.

31. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the Act, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid

regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

32. The directors shall cause minutes to be made in books provided for the purpose -

- (a) of all appointments of officers made by the directors.
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

33. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

34. The office of director shall be vacated, if the director -

- (a) without the consent of the company in general meeting holds any other office of profit under the company; or
- (b) becomes bankrupt; or
- (c) becomes prohibited from being a director by reason of any order made under sections 208 or 259 of the Act; or
- (d) is found lunatic or becomes of unsound mind; or
- (e) resigns his office by notice in writing to the company; or
- (f) is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section 148 of the Act.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

35. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

36. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

37. A retiring director shall be eligible for re-election.

38. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto, and, in default, the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

39. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

40. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director whose place he is appointed was last elected a director.

41. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

42. The company may by extraordinary resolution remove any director before the expiration of his period of office, any may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

43. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

44. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall, when the number of directors exceeds three, be three, and shall, when the number of directors does not exceed three, be two.

45. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

46. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

47. The directors may delegate any of their powers to committees consisting of such member or members of

their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

48. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

49. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

50. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Accounts.

51. The directors shall cause proper books of account to be kept with respect to -

All sums of money received and expended by the company and the matter in respect of which the receipt and expenditure takes place;

All sales and purchases of goods by the company; and

The assets and liabilities of the company.

52. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

53. The directors shall from time to time determine whether and to what extent, and at what times and places, and under what conditions or regulations, the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

54. The directors shall from time to time in accordance with section 2 of the Companies Act 1982, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports, as are referred to in that section.

55. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditor's report shall, not less than seven days before the date of the meeting, be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

56. Auditors shall be appointed and their duties regulated in accordance with sections 12, 14 and 15 of the Companies Act 1982.

Notices.

57. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within the Isle of Man or United Kingdom) to the address, if any, within the Isle of Man or United Kingdom supplied by him to the company for the giving of notices to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected at the expiration of 24 hours after the letter containing the same was posted.

58. If a member has no registered address within the Isle of Man or United Kingdom and has not supplied to the company an address within the Isle of Man or United Kingdom for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company, shall be deemed to be duly given to him on the day on which the advertisement appears.

59. Notice of every general meeting shall be given in some manner hereinbefore authorised to every member except those members who (having no registered address within the Isle of Man or United Kingdom) have not supplied to the company an address within the Isle of Man or United Kingdom for the giving of notices to them. No other persons shall be entitled to receive notices of general meetings.

Names, Addresses, and Descriptions of Subscribers

1. John Jones, of	in the parish of	Schoolmaster
2. John Smith, of	in the town of	Schoolmaster
3. Thomas Green, of	in the county of	Schoolmaster
4. John Thompson, of	in the county of	Schoolmaster
5. Caleb White, of	in the county of	Schoolmaster
6. Andrew Brown, of	in the county of	Schoolmaster
7. Caesar White, of	in the county of	Schoolmaster

Dated the _____ day of _____ 19____

Witness to the above signatures,

A.B., No.20, Bond Street, Douglas

TABLE D.

**MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE
AND HAVING A SHARE CAPITAL.**

Memorandum of Association.

1st. The name of the company is "The Highland Hotel Company, Limited".

2nd. The registered office of the company will be situate in the Isle of Man.

3rd. The objects for which the company is established are the facilitating travelling in the Highlands of Scotland, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing of all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding twenty pounds.

6th. The share capital of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers			Number of Shares taken by each Subscriber
1. John Jones, of merchant.....	in the parish of	,	200
2. John Smith, of merchant.....	in the town of	,	25
3. Thomas Green, of merchant.....	in the county of	,	30
4. John Thompson, of merchant.....	in the county of	,	40
5. Caleb White, of merchant.....	in the county of	,	15
6. Andrew Brown, of merchant.....	in the county of	,	5
7. Caesar White, of merchant.....	in the county of	,	10
			Total Shares taken 325

Dated the _____ day of _____ 19

Witness to the above signatures,

A. B., No 13 Hope Street, Castletown

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

1. The Articles of Table A set out in the First Schedule to the Companies Act 1931, shall be the articles of association of the company and apply to the company.

Names, Addresses, and Descriptions of Subscribers		
1. John Jones, of	in the parish of	Merchant
2. John Smith, of	in the town of	Merchant
3. Thomas Green, of	in the county of	Merchant
4. John Thompson, of	in the county of	Merchant
5. Caleb White, of	in the county of	Merchant
6. Andrew Brown, of	in the county of	Merchant
7. Caesar White, of	in the county of	Merchant

Dated the _____ day of _____

Witness to the above signatures,

A.B. No.13 Hope Street, Castletown

TABLE E.

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL.

Memorandum of Association.

1st. The name of the company is "The Patent Stereotype Company".

2nd. The registered office of the company will be situate in the Isle of Man.

3rd. The objects for which the company is established are the working of a patent method of founding and casting stereotype plates, of which method John Smith, of London, is the sole patentee, and the doing of all such things as are incidental or conducive to the attainment of the above objects.

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers			Number of Shares taken by each Subscriber
1. John Jones, of merchant.....	in the parish of	,	3
2. John Smith, of merchant.....	in the town of	,	2
3. Thomas Green, of merchant.....	in the county of	,	1
4. John Thompson, of merchant.....	in the county of	,	2
5. Caleb White, of merchant.....	in the county of	,	2
6. Andrew Brown, of merchant.....	in the county of	,	1
7. Caesar White, of merchant.....	in the county of	,	1
Total Shares taken			12

Dated the _____ day of _____

Witness to the above signatures,

A.B., No.20 Bond Street, Douglas

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

1. The share capital of the company is two thousand pounds divided into twenty shares of one hundred pounds each.
2. The company may by special resolution -

- (a) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;
- (b) consolidate its shares into shares of a larger amount than its existing shares;
- (c) sub-divide its shares into shares of a smaller amount than its existing shares;
- (d) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;
- (e) reduce its share capital in any way.

3. The Articles of Table A set out in the First Schedule to the Companies Act 1931 (other than Articles 30, 31, 32, 33, 34, 37 and 38) shall be deemed to be incorporated with these articles and shall apply to the company.

Names, Addresses, and Descriptions of Subscribers

1. John Jones, of	in the parish of	Merchant
2. John Smith, of	in the town of	Merchant
3. Thomas Green, of	in the county of	Merchant
4. John Thompson, of	in the county of	Merchant
5. Caleb White, of	in the county of	Merchant
6. Andrew Brown, of	in the county of	Merchant
7. Caesar White, of	in the county of	Merchant

Dated the _____ day of _____

Witness to the above signatures,

A.B. No.20, Bond Street, Douglas

SECOND SCHEDULE

[Repealed]

THIRD SCHEDULE

Repealed

FOURTH SCHEDULE

Repealed

FIFTH SCHEDULE

Repealed

SIXTH SCHEDULE

[Repealed]

SCHEDULE 6A

WRITTEN RESOLUTIONS OF PRIVATE COMPANIES

PART I - INTERPRETATION

1. In this Schedule, “the 1992 Act” means the Companies Act 1992.

PART II - EXCEPTIONS

2. Section 118A of this Act does not apply to -
 - (a) a resolution under section 141A of this Act removing a director before the expiration of his period of office, or
 - (b) a resolution under section 13 of the 1982 Act removing an auditor before the expiration of his term of office.

PART III - ADAPTATION OF PROCEDURAL REQUIREMENTS

Introductory

- 3.(1) In this Part of this Schedule (which adapts certain requirements of the 1992 Act in relation to proceedings under section 118A of this Act) -
 - (a) a “written resolution” means a resolution agreed to, or proposed to be agreed to, in accordance with that section, and
 - (b) a “relevant member” means a member by whom, or on whose behalf, the resolution is required to be signed in accordance with that section.
- (2) A written resolution is not effective if any of the requirements of this Part of this Schedule is not complied with.
4. *Repealed*

Sections 11, 12 and 14 of the 1992 Act (authority for off-market purchase or contingent purchase contract of company’s own shares)

- 5.(1) The following adaptations have effect in relation to a written resolution -
 - (a) conferring authority to make an off-market purchase of the company’s own shares under section 11(5) of the 1992 Act,
 - (b) conferring authority to vary a contract for an off-market purchase of the company’s own

shares under section 11(11) of the 1992 Act, or

(c) varying, revoking or renewing any such authority under section 11(6) of the 1992 Act.

(2) Section 11(9) of the 1992 Act (resolution ineffective if passed by exercise of voting rights by member holding shares to which the resolution relates) does not apply; but for the purposes of section 118A(1) of this Act a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to attend and vote.

(3) Section 11(10) of the 1992 Act (documents to be available at company's registered office and at meeting) does not apply, but the documents referred to in that provision and, where that provision applies by virtue of subsection (11) of that section the further documents referred to in that provision must be supplied to each relevant member at or before the time at which the resolution is supplied to him for signature.

(4) The above adaptations also have effect in relation to a written resolution to which the provisions of section 11(6) to (12) of the 1992 Act apply by virtue of -

(a) section 12(3) of that Act (authority for contingent purchase contract), or

(b) section 14(3) of that Act (approval of release of rights under contract approved under section 11 or 12 of that Act).

Section 19 of the 1992 Act (approval for payment out of capital)

6.(1) The following adaptations have effect in relation to a written resolution giving approval under section 19(2) of the 1992 Act (redemption or purchase of company's own shares out of capital).

(2) Section 19(7) of the 1992 Act (resolution ineffective if passed by exercise of voting rights by members holding shares to which the resolution relates) does not apply; but for the purposes of section 118A(1) of this Act a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to attend and vote.

(3) Section 19(8) of the 1992 Act (documents to be available at company's registered office and at meeting) does not apply, but the documents referred to in that provision must be supplied to each relevant member at or before the time at which the resolution is supplied to him for signature.

SEVENTH SCHEDULE

**FORM OF STATEMENT TO BE PUBLISHED BY BANKING AND INSURANCE COMPANIES, AND
DEPOSIT, PROVIDENT, OR BENEFIT SOCIETIES.**

*The share capital of the company is

, divided into shares of each.

The number of shares issued is

Calls to the amount of pounds per share have been made, under which the sum of pounds has been received.

The liabilities of the company on the first day of January (*or* July) were -

Debts owing to sundry persons by the company.

On judgment, £

On specialty, £

On notes or bills, £

On simple contracts, £

On estimated liabilities, £

The assets of the company on that day were -

Government securities [*stating them*]

Bills of exchange and promissory notes, £

Cash at the bankers, £

Other securities, £

*If the company has no share capital the portion of the statement relating to capital and shares must be omitted.

EIGHTH SCHEDULE

PROVISIONS WHICH DO NOT APPLY IN THE CASE OF A WINDING UP SUBJECT TO SUPERVISION OF THE COURT.

Statement of Companies affairs to be submitted to Official Receiver.

Report by Official Receiver.

Power of Court to appoint Liquidator.

Appointment and powers of provisional Liquidator.

Appointment, style, etc., of Liquidators winding up.

Provisions where person other than Official Receiver is appointed Liquidator.

General provisions as to Liquidators.

Exercise and control of Liquidators' powers.

Books to be kept by Liquidator.

Payments of Liquidator into Court.

Audit of Liquidators' accounts.

Control of Court over Liquidators.

Release of Liquidators.

Meeting of creditors and contributories to determine whether committee of inspection shall be appointed.

Constitution and proceedings of committee of inspection.

Powers of Court where no committee of inspection.

Appointment of special manager.

Power to order public examination of promoters, directors, etc.

Power to restrain fraudulent persons from managing companies.

Delegation to Liquidator of certain powers of Court.

Power to appoint Official Receiver as Receiver for debenture holders or creditors.

NINTH SCHEDULE

[Repealed]

TENTH SCHEDULE

PROVISIONS REFERRED TO IN SECTION 326 OF THE ACT.

Provisions relating to -

Conclusiveness of certificate of incorporation;

Specific requirements as to particulars in prospectus;

Return as to allotments;

Registration of charges created by company registered;

Duty of company to register charges created by company;

Duty of company to register charges existing on property acquired;

Application of Part III to companies incorporated outside the Isle of Man;

Restrictions on commencement of business;

The particulars as to directors and indebtedness of the company;

Statutory meeting and statutory report;

Auditors' report and right to information and explanations;

Restrictions on appointment or advertisement of director;

Notice by liquidator of his appointment;

Delivery to Financial Services Commission of accounts of receivers and managers;

Documents, etc., to be delivered to Financial Services Commission by companies carrying on business in the Isle of Man;

Return to be delivered to Financial Services Commission where documents etc., altered;

Balance sheet of company carrying on business in the Isle of Man;

Obligation to state name of company, etc.