

COMPANIES (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 36, 1974.

An Act to make further provisions with respect to the payment of amounts ordered to be paid under section 179 of the Companies Act, 1961, or section 5DB of the Securities Industry Act, 1970; for this and other purposes to amend the Companies Act, 1961; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Companies (Amendment) Act, 1974".

Amendment of Act No. 71, 1961.

2. The Companies Act, 1961, is amended—

Sec. 292. (Priorities.)

(a) by omitting from section 292 (1A) the words "the winding up shall, for the purposes of subsection (1), be deemed to have commenced, and the assets and liabilities of the company shall, for those purposes, be deemed to be those existing, immediately after the making of the order." and by inserting instead the following words and subsections:—

the amount that pursuant to the order the company is liable to pay shall be admissible to proof against the company and where all the debts that under subsection (1) have priority over all other unsecured debts—

- (a) have not been paid when the amount of the liability is so admitted to proof, that amount shall be paid in priority to all other unsecured debts except those having priority under subsection (1); or
- (b) have been paid when the amount of the liability is so admitted to proof, that amount shall be paid out of such of the property of the company as remained

when

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when that amount was so admitted to proof in priority to all other unsecured debts or the unpaid portion of all other unsecured debts, as the case may be. No. 36, 1974

(1AB) Section 291 does not apply to an amount required to be paid under subsection (1A).

(1AC) Where a copy of an order referred to in subsection (1A) is served on the liquidator of the company concerned, the liquidator shall not, if he has not admitted to proof the whole of the amount specified in the order as being the amount that pursuant to the order the company is liable to pay, make any payments or further payments out of the property of the company (other than payments of debts that under subsection (1) have priority over all other unsecured debts) until the expiration of seven days after he has served notice on the Minister that he has not admitted to proof the whole of the amount so specified in the order.

- (b) (i) by inserting in section 374D (1) (a) after the matter "374c" the matter "or subsection (3) of section 303"; Sec. 374D.
(Powers
of Court.)
- (ii) by inserting in section 374D (1) (b) after the matter "374c" the matter "or subsection (4) of section 304".

3. (1) The provisions of section 292 (1A) of the Companies Act, 1961, as amended by this Act, apply in respect of a company that is being wound up whether the order of the Court for the winding up of the company or the date of commencement of the winding up of the company was made or occurred before or after 1st January, 1972, and for the purposes of the application of those provisions to a

company

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No. 36, 1974 company in respect of which such an order was made or whose winding up commenced before 1st January, 1972, the reference in the definition of "the relevant date" in section 292 (11) of the Companies Act, 1961, to—

- (a) an order of the Court for the winding up of a company is a reference to such an order made before 1st January, 1972; and
- (b) the date of the commencement of the winding up of a company is a reference to such a date which was before 1st January, 1972.

(2) Section 292 (1A) of the Companies Act, 1961, as amended by this Act, and subsection (1) have effect notwithstanding the provisions of section 20 (3) of the Companies (Amendment) Act, 1971.

Amend-
ment of
Act No.
20, 1973.
Sec. 9.
(Transi-
tional
provision.)

4. The Companies (Amendment) Act, 1973, is amended by omitting section 9.