

PART X

APPROVAL OF ARRANGEMENTS, AMALGAMATIONS, AND
COMPROMISES BY COURT

Interpretation.

255. In this Part of this Act, unless the context otherwise requires—

“arrangement” includes a re-organisation, of the shares and the stated capital of a company;

“company” includes a registered overseas company; or of the shares or the stated capital of the company ; and

“creditor” includes a person who in a liquidation, would be entitled to claim in accordance with the provision of section 357 that a debt is owing to that person by the company.

Court approval
of arrangements,
amalgamation
and
compromises.

256. (1) Notwithstanding the provisions of this Act or the provisions contained in the articles of a company, the court may on the application of —

- (a) a company;
- (b) an administrator appointed under Part XIII; or
- (c) with the leave of the court, any shareholder or creditor of a company,

order that an arrangement or amalgamation or compromise shall be binding on the company and on such other persons or classes of persons as the court may specify. Any such order may be made on such terms and conditions as the court thinks fit.

(2) Before making an order under subsection (1), the court may, on the application of the company or the administrator

or any shareholder or creditor or other person who appears to the court to be interested or of its own motion, make any one or more of the following orders :—

- (a) an order that notice of the application together with such information relating to it as the court thinks fit, be given in such form and in such manner and to such persons or classes of persons as the court may specify;
- (b) an order directing the holding of a meeting or meetings of shareholders or any class of shareholders or creditors or any class of creditors of a company, to consider and if determined fit, to approve in such manner as the court may specify, the proposed arrangement or amalgamation or compromise. The court may for that purpose determine the shareholders or creditors that constitute a class of shareholders or creditors of a company;
- (c) an order requiring that report on the proposed arrangement or amalgamation or compromise be prepared for the court by a person specified by the court, and if the court thinks fit, be supplied to the shareholders or any class of shareholders or creditors or any class of creditors of a company or to any other person who appears to the court to be interested;
- (d) an order as to the payment of the costs incurred in the preparation of any such report;
- (e) an order specifying the persons who shall be entitled to appear and be heard on the application to approve the arrangement or amalgamation or compromise.

(3) An order made under this section shall have effect on and from the date specified in the order.

(4) Within ten working days of an order being made by the court under this section, the company shall ensure that a copy of the order is delivered to the Registrar.

(5) Where a company fails to comply with the requirements of subsection (4)—

- (a) the company shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred thousand rupees; and
- (b) every officer of the company who is in default shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees.

Court may make additional orders.

257. (1) Without limiting the powers conferred under section 256, the court may for the purpose of giving effect to any arrangement or amalgamation or compromise approved under that section, either by the order approving the arrangement or amalgamation or compromise or by any subsequent order, provide for and prescribe terms and conditions relating to —

- (a) the transfer or vesting of movable or immovable property, assets, rights, powers, interests, liabilities, contracts and engagements;
- (b) the issue of shares, securities or policies of any kind;
- (c) the continuation of legal proceedings;
- (d) the liquidation or the removal from the Register without liquidation, name and particulars of any company;
- (e) the provision to be made for persons who voted against the arrangement or amalgamation or compromise at any meeting called in accordance with an order made under paragraph (b) of subsection (2) of section 256, or who appeared before the court

in opposition to the application, to approve the arrangement or amalgamation or compromise;

- (f) such other matters as are necessary or desirable to give effect to the arrangement or amalgamation or compromise.

(2) An order made by the court under subsection (1) shall have effect according to its tenor.

(3) Within ten working days of an order being made by the court under this section, the company shall ensure that a copy of the order is delivered to the Registrar.

(4) Where a company fails to comply with the requirements of subsection (3)—

- (a) the company shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred thousand rupees; and
- (b) every officer of the company who is in default shall be guilty of an offence and be liable on conviction to a fine not exceeding fifty thousand rupees.

258. The court shall not approve an arrangement or amalgamation or compromise under section 256 if it could be effected under Part VIII or this Part or under any other provisions of this Act, unless it is satisfied that it is not reasonably practicable to do so.

Application of
Part VIII.

259. The provisions of section 253 shall apply with such modifications as may be necessary, in relation to any compromise approved under section 256.

Application of
section 253 to
compromise
approved under
this Part.

PART XI

PROVISIONS RELATING TO OFFSHORE COMPANIES

Interpretation. **260.** In this Part of this Act, “company” includes a company or a body corporate incorporated under the laws of any foreign country.

Company incorporated for business outside Sri Lanka. **261.** (1) Any company may make an application to the Registrar in accordance with the provisions of this Part of this Act to be registered in Sri Lanka as an off-shore company and to be so referred to, and in the case of a company incorporated abroad, to be deemed to be incorporated in Sri Lanka, as if it had been incorporated under the provisions of this Act.

(2) An application for registration under subsection (1) shall have annexed thereto the following documents :—

- (a) a certified copy of the charter, statute or memorandum and articles of association of the company or other instrument constituting or defining the constitution of the company, and where such instrument is not in an official language or in English, a translation of the instrument in such language as may be specified by the Registrar;
- (b) a list of the directors or those managing the affairs of the company, containing their full names, addresses, occupations and the offices they hold in the company;
- (c) the names and addresses of one or more persons who are resident in and are citizens of Sri Lanka, who is or are authorised to represent the company;
- (d) a statement containing the full address of—
 - (i) the registered or principal office of the company in the country of incorporation; and
 - (ii) the office of the company in Sri Lanka;