

- (c) a sum representing ;
  - (i) the consideration so far as it is cash,
  - (ii) the proceeds of any sale under subparagraph (b) above ; and
  - (iii) any interest, dividend or other benefit that has accrued from the consideration,

shall be deposited in the name of the Public Trustee.

(7) The expenses of any such inquiry and press notices as is mentioned above shall be defrayed out of the money or other property held in trust referred to in subsection (4) above.

## PART IX

### COMPROMISES WITH CREDITORS

**247.** In this Part of this Act, unless the context otherwise requires— Interpretation.

“compromise” means a compromise between a company and its creditors, including a compromise—

- (a) cancelling all or part of any debt of the company ;
- (b) varying the rights of its creditors or the terms of a debt ;
- (c) relating to an alteration of a company’s articles that affects the likelihood of the company’s ability to pay a debt;

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

“proponent” means a person referred to in section 248 who proposed a compromise in accordance with the provisions of this Part of this Act.

Compromise  
proposal.

**248.** (1) Any of the following persons may propose a compromise under this Part, if that person has reason to believe that a company is or is likely to become unable to pay its debts as they fall due:—

- (a) the board of the company ;
- (b) a receiver appointed in relation to the property and undertakings of the company ;
- (c) an administrator of the company appointed under Part XIII ;
- (d) a liquidator of the company ; or
- (e) with the leave of the court, any creditor or shareholder of the company.

(2) Where the court grants leave to a creditor or shareholder under paragraph (d) of subsection (1), the court may make an order directing the company to supply to the creditor or shareholder within such time as may be specified, a list of the names and addresses of the company’s creditors, showing the amounts owed to each of them or such other information as may be specified, to enable the creditor or shareholder to propose a compromise.

Notice of  
proposed  
compromise.

**249.** (1) The proponent shall compile, in relation to each class of creditors of the company, a list of creditors known to the proponent who would be affected by the proposed compromise, and setting out—

- (a) the amount owing or estimated to be owing to each of them ; and

- (b) the number of votes which each of them is entitled to cast on a resolution approving the compromise.

(2) The proponent shall give to each known creditor, the company, any receiver or administrator or liquidator respectively, and deliver to the Registrar—

- (a) a notice in accordance with the requirements specified in the Seventh Schedule hereto, of the intention to hold a meeting of creditors, or any two or more classes of creditors, for the purpose of voting on the resolution ; and
- (b) a statement—
  - (i) containing the name and address of the proponent and the capacity in which the proponent is acting ;
  - (ii) containing the address and telephone number to which inquiries may be directed during normal business hours ;
  - (iii) setting out the terms of the proposed compromise and the reasons for it ;
  - (iv) setting out the reasonably foreseeable consequences for creditors of the company of the compromise being approved ;
  - (v) setting out the extent of any interest of a director in the proposed compromise ;
  - (vi) explaining that the proposed compromise and any amendment to it proposed at a meeting of creditors or any classes of creditors, will be binding on all creditors or on all creditors of that class, if approved in accordance with the provisions of section 250 ; and

- (vii) containing details of any procedure proposed as part of the proposed compromise for varying the compromise following its approval ; and

- (c) a copy of the list or lists of creditors referred to in subsection (1).

Effect of  
compromise.

**250.** (1) A compromise including any amendment proposed at the meeting, is deemed to be approved by creditors or a class of creditors, if at a meeting of creditors or that class of creditors conducted in accordance with the requirements specified in the Seventh Schedule hereto, the compromise, including any amendment is adopted in accordance with paragraph 5 of that Schedule.

(2) A compromise including any amendment approved by creditors or a class of creditors of a company in accordance with the provisions of this Part, is binding on the company and on—

- (a) all creditors ; or
- (b) if there is more than one class of creditors, on all creditors of that class,

to whom notice of the proposal was given under section 249.

(3) Where a resolution proposing a compromise including any amendment is put to the vote of more than one class of creditors, it shall be presumed unless the contrary is expressly stated in the resolution, that the approval of the compromise, including any amendment by each class, is conditional on the approval of the compromise, including any amendment by every other class voting on the resolution.

(4) The proponent shall give written notice of the result of the voting to each known creditor, the company, any receiver or administrator or liquidator and the Registrar, respectively.

**251.** (1) A compromise approved under section 250 may be varied either—

Variation of  
compromise

- (a) in accordance with any procedure for variation incorporated in the compromise as approved ; or
- (b) by the approval of a variation of the compromise in accordance with the requirements provided for in this Part which, for that purpose, shall apply with such modifications as may be necessary, as if any proposed variation were a proposed compromise.

(2) The provisions of this Part shall apply to any compromise that is varied in accordance with this section.

**252.** (1) On the application of the proponent or the company, the court may—

Powers of court.

- (a) give directions in relation to a procedural requirement imposed under provisions of this Part or waive or vary any such requirement, if the court is satisfied that it would be just to do so; or
- (b) order that during a period specified in the order, beginning not earlier than the date on which notice was given of the proposed compromise and ending not later than ten working days after the date on which notice was given of the result of the voting on it—
  - (i) proceedings in relation to a debt owing by the company be stayed; or
  - (ii) a creditor should refrain from taking any other measure to enforce payment of a debt owing by the company.

(2) Nothing in paragraph (b) of subsection (1) shall affect the right of a secured creditor during that period to seize, realise, appoint a receiver in respect of or otherwise deal with property of the company, over which that creditor has a charge.

(3) Where the court is satisfied on the application of a creditor of a company who was entitled to vote on a compromise, that —

- (a) insufficient notice of the meeting or of the matters required to be notified under section 249 was given to that creditor;
- (b) there was some other material irregularity in obtaining approval of the compromise; or
- (c) in the case of a creditor who voted against the compromise, the compromise is unfairly prejudicial to that creditor or to the class of creditors to which that creditor belongs,

the court may make an order that such creditor is not bound by the compromise, or make such other order as it thinks fit.

(4) An application under subsection (3) shall be made not later than ten working days after the date on which notice of the result of the voting was given to the creditor.

Effect of  
compromise in  
liquidation of a  
company.

**253.** (1) Where a compromise is approved under section 250, the court may on the application of—

- (a) the company ;
- (b) a receiver appointed in relation to property of the company;
- (c) an administrator; or
- (d) with the leave of the court, any creditor or shareholder of the company,

make such order as the court thinks fit with respect to the extent, if any, to which the compromise will, if the company is put into liquidation, continue in effect and be binding on the liquidator of the company.

(2) Where a compromise is approved under section 250 and the company is subsequently put into liquidation, the court may on the application of—

- (a) the liquidator;
- (b) a receiver appointed in relation to property of the company; or
- (c) with the leave of the court, any creditor or shareholder of the company,

make such order as the court thinks fit with respect to the extent, if any, to which the compromise will continue in effect and be binding on the liquidator of the company.

**254.** Unless the court orders otherwise, the costs incurred in organising and conducting a meeting of creditors for the purpose of voting on a proposed compromise—

Costs of  
compromise.

- (a) shall be met by the company;
- (b) if incurred by a receiver or a liquidator, shall be deemed to be a cost of the receivership or liquidation;
- (c) if incurred by an administrator, shall be deemed to be a cost of the administration; or
- (d) if incurred by any other person, shall be deemed to be a debt due to that person from the company and, if the company is put into liquidation, are payable in the order of priority specified in the Ninth Schedule.

## 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