

Alteration of objects clause by special resolution

1241. (1) Subject to subsection (2), an unlimited company may, by special resolution, alter the provisions of its memorandum of association by abandoning, restricting or amending any existing object or by adopting a new object and any alteration so made shall be as valid as if originally contained therein, and be subject to alteration in like manner.

(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) in the case of—

(i) an ULC or a PUC by the holders of not less, in the aggregate, than 15 per cent in nominal value of the ULC's or PUC's issued share capital or any class thereof, or

(ii) in the case of any type of unlimited company, by not less than 15 per cent of the company's members,

or

(b) in any case, by the holders of not less than 15 per cent of the unlimited company's debentures, entitling the holders to object to alterations of its objects.

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

(5) An application under this section shall be made within 21 days after the date on which the resolution altering the unlimited 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) On an application under this section, the court may—

(a) make an order cancelling the alteration or confirming the alteration, either wholly or in part, and on such terms and conditions as it thinks fit, and

(b) 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 dissenting 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) An order under this section may, if the court thinks fit, provide for the purchase by the unlimited company of the shares of any members of the company and for the reduction accordingly of its company capital and may make such alterations in the constitution of the company as may be required in consequence of that provision; and such a purchase may be so ordered notwithstanding anything in section 102.