

Distribution of property of company

618. (1) Subject to the provisions of this Act as to preferential payments, the property of a company on its winding up—

(a) shall, subject to subsection (2), be applied in satisfaction of its liabilities *pari passu*, and

(b) shall, subject to such application, and unless the constitution of the company otherwise provides, be distributed among the members according to their rights and interests in the company.

(2) Nothing in subsection (1)(a) shall in any way affect any rights or obligations of the company or any other person arising as a result of any agreement entered into by any person under which any particular liability of the company to any general creditor is postponed in favour of or subordinated to the rights or claims of any other person to whom the company may be in any way liable.

(3) Subject to the provisions of this Part, in the case of a members' voluntary winding up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by this Act, divide among the members, in specie or kind, the whole or any part of the property of the company (whether they shall consist of property of the same kind or not) and may, for such purpose—

(a) set such value as he or she deems fair upon any property to be divided in that manner, and

(b) determine how such division shall be carried out as between the members or different classes of members,

but so that no member shall be compelled to accept any shares or other securities on which there is any liability.

(4) In the case of such a voluntary winding up, the liquidator may, subject to the provisions of this Part and with the like sanction, vest the whole or any part of such property in trustees upon such trusts for the benefit of the members as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities on which there is any liability.

(5) In subsection (2)—

“liability” includes a contingent liability;

“person” includes a class of persons.