

Capacity not limited by the constitution of an unlimited company

1240. (1) The validity of an act done by an unlimited company shall not be called into question on the ground of lack of capacity by reason of anything contained in the company's objects.

(2) A member of an unlimited company may bring proceedings to restrain the doing of an act which, but for subsection (1), would be beyond the company's capacity but no such proceedings shall lie in respect of any act to be done in fulfilment of a legal obligation arising from a previous act of the company.

(3) Notwithstanding the enactment of subsection (1), it remains the duty of the directors to observe any limitations on their powers flowing from the unlimited company's objects and action by the directors which, but for subsection (1), would be beyond the unlimited company's capacity may only be ratified by the company by special resolution.

(4) A resolution ratifying such action shall not affect any liability incurred by the directors or any other person; if relief from any such liability is to be conferred by the unlimited company it must be agreed to separately by a special resolution of it.

(5) A party to a transaction with an unlimited company is not bound to enquire as to whether it is permitted by the company's objects.