

Companies Act, 1956

Section 293 - Restrictions on Powers of Board

(1) The Board of directors of a public company, or of a private company which is a subsidiary of a public company, shall not, except with the consent of such public company or subsidiary in general meeting, -

(a) sell, lease or otherwise dispose of the whole, or substantially the whole, of the undertaking of the company, or where the company owns more than one undertaking, of the whole, or substantially the whole, of any such undertaking;

(b) remit, or give time for the re-payment of, any debt due by a director¹[except in the case of renewal or continuance of an advance made by a banking company to its director in the ordinary course of business];

(c) invest, otherwise than in trust securities,²[the amount of compensation received by the company in respect of the compulsory acquisition, after the commencement of this Act], of any such undertaking as is referred to in clause (a), or of any premises or properties used for any such undertaking and without which it cannot be carried on or can be carried on only with difficulty or only after a considerable time;

(d) borrow moneys after the commencement of this Act, where the moneys to be borrowed, together with the moneys already borrowed by the company (apart from temporary loans obtained from the company's bankers in the ordinary course of business), will exceed the aggregate of the paid-up capital of the company and its free reserves, that is to say, reserves not set apart for any specific purpose; or

(e) contribute after the commencement of this Act, to charitable and other funds not directly relating to the business of the company or the welfare of its employees, any amounts the aggregate of which will, in any financial year, exceed³[fifty thousand rupees], or five per cent, of its average net profits as determined in accordance with the provisions of sections 349 and 350 during the three financial years immediately preceding whichever is greater.

⁴[Explanation I. -Every resolution passed by the company in general meeting in relation to the exercise of the power referred to in clause (d) or in clause (e) shall specify the total amount up to which moneys may be borrowed by the Board of directors under clause (d) or as the case may be, the total amount which may be contributed to charitable and other funds in any financial year under clause (e).

Explanation II. -The expression "temporary loans" in clause (d) means loans repayable on demand or within six months from the date of the loan such as short term, cash credit arrangements, the discounting of bills and the issue of other short- term loans of a seasonal character, but does not include loans raised for the purpose of financing expenditure of a capital nature.]

Explanation⁵[III]. -Where a portion of a financial year of the company falls before the commencement of this Act, and a portion falls after such commencement, the latter portion shall be deemed to be a financial year within the meaning, and for the purposes, of clause (e).

(2) Nothing contained in clause (a) of sub-section (1) shall affect -

(a) the title of a buyer or other person who buys or takes a lease of any such undertaking as is referred to in that clause, in good faith and after exercising due care and caution; or

(b) the selling or leasing of any property of the company where the ordinary business of the company consists of, or comprises, such selling or leasing.

(3) Any resolution passed by the company permitting any transaction such as is referred to in clause (a) of sub-section (I) may attach such conditions to the permission as may be specified in the resolution, including conditions regarding the use, disposal or investment of the sale proceeds which may result from the transaction:

Provided that this sub-section shall not be deemed to authorise the company to effect any reduction in its capital except in accordance with the provisions contained in that behalf in this Act.

(4) The acceptance by a banking company, in the ordinary course of its business, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise, shall not be deemed to be a borrowing of moneys by the banking company within the meaning of clause (d) of sub-section (1).

(5) No debt incurred by the company in excess of the limit imposed by clause (d) of sub-section (1) shall be valid or effectual, unless the lender proves that he advanced the loan in good faith and without knowledge that the limit imposed by that clause had been exceeded.

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1. Added by Act 65 of 1960, sec. 99 (w.e.f. 28-12-1960).
 2. Substituted by Act 65 of 1960, sec. 99, for certain words (w.e.f.28-12-1960).
 3. Substituted by Act 46 of 1977, sec. 6, for "twenty-five thousand rupees" (w.e.f. 24-12-1977).
 4. Inserted by Act 65 of 1960, sec. 99 (w.e.f. 28-12-1960).
 5. Former Explanation re-numbered as Explanation III by Act 65 of 1960, sec. 99 (w.e.f. 28-12-1960).
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