

Companies Act, 1956

Chapter 1 - Preliminary

(1) The winding up of a company may be either--

(a) by the [1](#) [Tribunal]; or

(b) voluntary; [2](#) [***]

[3](#) [***]

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

1. Substituted by Act 11 of 2003, Section 48 for "Court".

2. The word "or" omitted by Act 11 of 2003, Section 48.

3. Clause (c) omitted by Act 11 of 2003, Section 48.

Section 426 to 432 - Contributories

Section 426 - Liability as contributories of present and past members

(1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of section 427 and subject also to the following qualifications, namely:--

(a) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;

(b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(c) no past member shall be liable to contribute unless it appears to the [1](#)[Tribunal] that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(d) in the case of a company limited by shares, no contribution shall be required from any past or present member exceeding the amount if any unpaid on the shares in respect of which he is liable as such member;

(e) in the case of a company limited by guarantee, no contribution shall, subject to the provisions of sub-section (2), be required from any past or present member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;

(f) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(g) a sum due to any past or present member of the company in his character as such, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company payable to that member, in a case of competition between himself and [2](#) [any creditor claiming otherwise than in the character of a past or present member of the company]; but any such sum shall be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him as if the company were a company limited by shares.

1. Substituted by Act 11 of 2003, Section 49, for "Court".

2. Substituted by Act 65 of 1960, Section 161, for certain words (w.e.f. 28-12-1960).

Section 427 - Obligations of directors and managers whose liability is unlimited

427. Obligations of directors, [1](#) [*] and managers whose liability is unlimited**

In the winding up of a limited company, any director, [2](#) [***] or manager, whether past or present, whose liability is, under the provisions of this Act, unlimited, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were, at the commencement of the winding up, a member of an unlimited company:

Provided that--

(a) a past director [2](#) [***] or manager shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(b) a past director [2](#) [***] or manager shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director, [2](#) [***] or manager shall not be liable to make such further contribution, unless the [3](#) [Tribunal] deems it necessary to require the contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding up.

1. The words ", managing agent" omitted by Act 53 of 2000, section 187 (w.e.f. 13-12-2000).

2. The words ", managing agent, secretaries and treasures" omitted by Act 53 of 2000, Section 187 (w.e.f. 13-12-2000).

3. Substituted by Act 11 of 2003, section 49, for "Court".

Section 428 - Definition of "contributory"

The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and includes the holder of any shares which are fully paid up; and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

Section 429 - Nature of liability of contributory

(1) The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times specified in calls made on him for enforcing the liability.

(2) No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes sitting outside the presidency-towns.

Section 430 - Contributories in case of death of member

(1) If a contributory dies either before or after he has been placed on the list of contributories, his legal representatives shall be liable in due course of administration, to contribute to the assets of the company in discharge of his liability, and shall be contributories accordingly.

(2) If the legal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory and compelling payment thereof of the money due.

(3) For the purposes of this section, where the deceased contributory was a member of a Hindu joint family governed by the Mitakshara School of Hindu Law, his legal representatives shall be deemed to include the surviving coparceners.

Section 431 - Contributories in case of insolvency of member

If a contributory is adjudged insolvent, either before or after he has been placed on the list of contributories,

(a) his assignees in insolvency shall represent him for all the purposes of the winding up, and shall be contributories accordingly, and may be called on to admit to proof against the estate of the insolvent, or otherwise to allow to be paid out of his assets in due course of law, any money due from the insolvent in respect of his liability to contribute to the assets of the company; and

(b) there may be proved against the estate of the insolvent the estimated value of his liability to future calls as well as calls already made.

Section 432 - Contributories in case of winding up of a body corporate which is a member

If a body corporate which is a contributory is ordered to be wound up, either before or after it has been placed on the list of contributories,--

(a) the liquidator of the body corporate shall represent it for all the purposes of the winding up of the company and shall be a contributory accordingly, and may be called on to admit to proof against the assets of the body corporate, or otherwise to allow to be paid out of its assets in due course of law, any money due from the body corporate in respect of its liability to contribute to

the assets of the company; and

(b) there may be proved against the assets of the body corporate the estimated value of its liability to future calls as well as calls already made.