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COMPANIES ACT CHAPTER 81:01

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“director”, in relation to a body corporate, means a person occupying therein the position of a director by whatever title he is called;

“external company” means any incorporated body of persons that is formed under the laws of a country other than Trinidad and Tobago;

“firm” means an unincorporated body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;

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“former Act” means the Companies Ordinance, repealed by this Act;

“former-Act company” means a company incorporated or registered under the former Act or any Act replaced by that Act;

“incorporator” means, in relation to a company, a person who signs the articles of incorporation of the company;

“legal representative”, in relation to a company, shareholder, debenture holder or other person, means a person who stands in place of and represents the company, shareholder, debenture holder or person, and without limiting the generality of the foregoing, includes, as the circumstances require, a trustee, executor, administrator, assignee, or receiver of the company, shareholder, debenture holder or person;

“liability” includes, in relation to a company, any debt of the company that arises under—

- (a) section 53;
- (b) section 235(2); or
- (c) section 242(3)(f) or (g);

“member”, in relation to a non-profit company or a company limited by guarantee, means a member of the company in accordance with the provisions of this Act and the articles and bye-laws of the company;

“Minister” means the Minister to whom responsibility for the Registrar General’s Department is assigned;

“non-profit company” means a company without share capital; “officer” in relation to a body corporate means—

- (a) the chairman, deputy chairman, president or vice-president of the board of directors;
- (b) the managing director, general manager, comptroller, secretary or treasurer; or
- (c) any other person who performs for the body corporate functions similar to those normally performed by the holder of any office specified in paragraph (a) or (b) and who is duly appointed to perform such functions;

“ordinary resolution” means a resolution passed by a majority of the votes cast by the shareholders who voted in respect of that resolution;

“prescribed” means prescribed by rules made under section 464 or regulations made under section 507;

“public company” means a company any of whose issued shares or debentures are or were part of a distribution to the public within the meaning of section 6 but does not include a former—Act company which was not a public company under the former Act at the commencement date;

“record” includes any register, book or other record that is required to be kept by a body corporate;

“redeemable share” means a share issued by a company—

- (a) that the company can purchase or redeem upon demand of the company; or
- (b) that the company is required by its articles to purchase or redeem at a specified time or upon the demand of a shareholder;

“Registrar” refers to the Registrar of Companies under this Act;

“Registrar of Companies” refers to the Registrar General or any officer acting in that capacity, and in this regard section 3(1) of the Registrar General Act applies and includes any person duly authorised by the Registrar;

“relative”, in relation to a person, means—

- (a) a parent, grandparent, brother, sister or spouse;
- (b) a son-in-law or daughter-in-law; or
- (c) a step-child;

306. An action to enforce a right created by section 305(1)(b) or (c) may not be commenced except within two years after the discovery of the facts that gave rise to the cause of action.

Time limit on action.

PART V

OTHER REGISTERED COMPANIES

Division 1—Companies Without Share Capital

307. (1) This Division applies to a non-profit company.

Application of Division (5 of 1997)

(2) When a provision of this Division is inconsistent with, or repugnant to, any other provision of this Act, the provision of this Division in so far as it affects a non-profit company to which this Division applies, supersedes and prevails over the other provisions of this Act.

(3) For the avoidance of uncertainty, but subject to subsection (2), the following provisions of this Act apply, with such modifications as the circumstances of a non-profit company require, to such a company, namely:

- (a) the provisions of Divisions 1, 2, 4, 5, 6, 7, 8, 9, 11 and 12 of Part III;
- (b) the provisions of Divisions 1, 2 and 3 of Part IV,
- (c) the provisions of Divisions 2 and 3 of this Part; and
- (d) the provisions of Part VI and VII.

Incorporation

308. (1) Without the prior approval of the Registrar, no articles shall be accepted for filing in respect of any non-profit company.

(2) In order to qualify for approval, a non-profit company shall restrict its business to one that is of a patriotic, religious, philanthropic, charitable, educational, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object.

(3) Notwithstanding subsection (1), the approval of the Registrar is not required for the continuation under this Act of a former-Act company that was registered by licence of the President pursuant to section 20 of the former Act.

309. The articles of a non-profit company shall be in the prescribed form, and in addition, shall state—

Form of articles. (5 of 1997)

- (a) the restrictions on the business that the company is to carry on;
- (b) that the company has no authorized share capital and is to be carried on without pecuniary gain to its members, and that any profits or other accretions to the company are to be used in furthering its business;
- (c) if the business of the company is of a social nature, the address in full of the clubhouse or similar building that the company is maintaining;
- (d) that each first director becomes a member of the company upon its incorporation; and
- (e) whether the liability of the members of the company is limited by guarantee.

310. (1) A non-profit company shall have no fewer than three directors.

Directors ex-officio.

(2) The articles or by-laws of a non-profit company may provide for individuals becoming directors by virtue of holding some office outside the company.

311. (1) Unless the articles or by-laws of a non-profit company otherwise provide, there is no limit on the number of members of the company.

Members unlimited.

(2) The articles or by-laws of a non-profit company may provide for more than one class of membership; but, if they do so, they shall set forth the designation of, and the terms and conditions attached to, each class of members.

**312.** Subject to the articles or by-laws of a non-profit company, persons may be admitted to membership in the company by resolution of the directors; but the articles or by-laws may provide—

- (a) that the resolution is not effective until confirmed by the members in a general meeting; and
- (b) that members can be admitted by virtue of holding some office outside the company.

Admission to membership

**313.** (1) Subject to subsection (2), each member of each class of members of a non-profit company has one vote.

(2) The articles of a non-profit company may provide that each member of a specified class has more than one vote, or has no vote.

Voting by members

**314.** (1) Unless the articles of the company otherwise provide, the interest of a member in a non-profit company is not transferable, and lapses and ceases to exist upon his death or when he ceases to be a member by resignation, or otherwise in accordance with the by-laws of the company.

Transfer of members

(2) Where the articles of a non-profit company provide that the interest of a member in the company is transferable, the by-law may not restrict the transfer of that interest.

**315.** (1) The directors of a non-profit company may make by-laws, not being contrary to this Act or to the articles of the company, respecting—

By-laws

- (a) the admission of persons and unincorporated associations as members and as *ex officio* members, and the qualifications of, and the conditions of membership;
- (b) the fees and dues of members;
- (c) the issue of membership cards and certificates;
- (d) the suspension and termination of membership by the company and by a member;
- (e) where the articles provide that the interest of a member is transferable, the method of transferring membership;

(f) the qualifications of, and the remuneration of, the directors and the *ex officio* directors, if any;

(g) the time for, and manner of, election of directors;

(h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the company, and the security, if any, to be given by them to the company;

(i) the time and place, and the notice to be given, for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirements as to proxies, and the procedure in all things at meetings of the members and at meetings of the board of directors; and;

(j) the conduct in all other particulars of the affairs of the company.

(2) The directors of a non-profit company may make by-laws not being contrary to this Act or to the articles of the company respecting—

(a) the division of its members into groups, either territorial or on the basis of common interest;

(b) the election of some or all of the directors—

- (i) by the groups on the basis of the number of members in each group;

- (ii) for the groups in a defined geographical area, by the delegates of the groups meeting together; or

- (iii) by the groups on the basis of common interest;

(c) the election of delegates and alternate delegates to represent each group on the basis of the number of members in each group;

(d) the number and qualifications of delegates and the method of their election;

(e) the holding of meetings of members or delegates;

(f) the powers and authority of delegates at meetings; and

(g) the holding of meetings of members or delegates territorially or on the basis of common interest.

(3) A by-law passed under subsection (2)(f) may provide that a meeting of delegates for all purposes is a meeting of the members with all the powers of such a meeting.

(4) A by-law under subsection (2) is not effective until it is confirmed by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose.

(5) A delegate has only one vote and may not vote by proxy.

(6) A by-law passed under subsection (2) may not prohibit members from attending meetings of delegates and participating in the discussions at the meetings.

**316.** (1) Subject to subsection (2), upon dissolution, a non-profit company shall, after satisfaction of all its debts and liabilities, give or transfer any remaining property to such other non-profit company as the members may, with the approval of the President, determine.

(2) Upon the dissolution of a non-profit company whose profits are exempt from corporation tax under section 6(1) of the Corporation Tax Act, the company shall, after satisfaction of all its debts and liabilities, give or transfer any remaining property to such other non-profit company enjoying a similar exemption, as the members may, with the approval of the Board of Inland Revenue, determine.

#### *Division 2—External Companies*

**317.** This Division shall apply to all external companies which—

(a) establish a place of business within Trinidad and Tobago;

(b) before the commencement of this Act established a place of business within Trinidad and Tobago and continue to have an established place of business within Trinidad and Tobago at the commencement of this Act; or

(c) establish or use a share transfer or share registration office in Trinidad and Tobago.

**318.** (1) External companies which after the commencement of this Act establish a place of business within Trinidad and Tobago shall within fourteen days from the establishment of the place of business file with the Registrar a statement in the prescribed form setting out—

- (a) the name of the company;
- (b) the jurisdiction within which the company was incorporated;
- (c) the date of its incorporation;
- (d) the manner in which it was incorporated;
- (e) a list of its corporate instruments;
- (f) the period, if any, fixed by its corporate instruments for the duration of the company;
- (g) the extent, if any, to which the liability of the shareholders or members of the company is limited;
- (h) any restrictions on the business that the company may carry on;
- (i) the date on which the company commenced or intends to commence any of its business in Trinidad and Tobago;
- (j) the authorized, subscribed and paid-up or stated capital of the company, and the shares that the company is authorized to issue and their nominal or par value, if any;
- (k) the full address of the registered or head office of the company outside Trinidad and Tobago;
- (l) the full address of the principal office of the company in Trinidad and Tobago; and
- (m) the full names, addresses and occupations of the directors of the company.

(2) The statement under subsection (1) shall be accompanied by—

- (a) an affidavit or solemn declaration sworn or made before a notary public by an officer of the company that verifies on behalf of the company the particulars set out in the statement and in the case of an application for registration under section 319 that

Registration  
required.  
§ 5 of 1997.

Disposal of  
property on  
dissolution.  
§ 5 of 1997.

Application  
of Division.



verifies that the corporate instruments filed under the former Act together with any amendments thereto or variations thereof constitute the corporate instruments of the company at the date of the application;

- (b) a copy of the corporate instruments of the company and in the case of an application under section 319 to the extent only that they have not been filed under the former Act;
- (c) a statutory declaration by an attorney-at-law that to the best of his knowledge and belief this section has been complied with;
- (d) the prescribed fees; and
- (e) a power of attorney in accordance with section 323.

(3) The Registrar may accept the declaration referred to in subsection (2)(c) as sufficient evidence of compliance with the requirements of this section.

**319.** (1) Every external company that was carrying on business in Trinidad and Tobago immediately before the commencement date and was registered under the former Act shall within eighteen months after that date apply to the Registrar for a certificate of registration under this Division.

(2) Upon receipt of an application in the prescribed form and on filing with the Registrar the documents required by section 318, the Registrar shall issue a certificate of registration to the company.

(3) Upon registration under this Act, the provisions of sections 343 and 344 shall apply to an external company registered under the former Act in respect of its business in Trinidad and Tobago, with any necessary modifications.

(4) An external company whose name appears on the Register maintained by the Registrar pursuant to section 472 is presumed to be registered under this Act and an external company whose name does not appear on that Register is presumed not to be registered under this Act.

Entitlement to registration. [5 of 1997].

**320.** Subject to section 493(b) to (f), an external company, upon payment of the prescribed fee, is entitled to be registered under this Act for any lawful business.

External amalgamated company. [5 of 1997].

**321.** An external company that has been constituted by the amalgamation of two or more external companies shall comply with section 323 as though it were a new registration of an external company, irrespective of the fact that one or more of the external companies that constitute the amalgamated company had been registered under this Act at the date of the amalgamation or thereafter.

Language.

**322.** When a document that is required to be filed under section 318 is not in the English language, a notarially certified translation of that document shall be provided unless the Registrar otherwise directs.

Attorney of company. [5 of 1997].

**323.** (1) An external company shall file with the Registrar a fully executed power of attorney in the prescribed form in favour of a company incorporated in Trinidad and Tobago, or two or more persons resident in Trinidad and Tobago, that will empower such company, or persons severally, to act as the attorney of the company for the purpose of receiving service of process in all suits and proceedings by or against the company in Trinidad and Tobago and of receiving all lawful notices.

(2) A power of attorney under subsection (1) shall declare that service of process in respect of suits and proceedings by or against the company and of lawful notices on the attorney shall be binding on the company for all purposes.

(3) An external company may, by another power of attorney executed and deposited in accordance with this section—

- (a) appoint another attorney in Trinidad and Tobago for the purposes set forth in the power; or
- (b) replace the attorney previously appointed pursuant to this section.

(4) A power of attorney filed or deposited under this section shall be valid although not registered under the Registration of Deeds Act.

Registration of external companies registered under former Act. [5 of 1997].

**324.** If an attorney named in a power of attorney executed by an external company under section 323 ceases to reside in Trinidad and Tobago or if the power of attorney becomes invalid or ineffectual for any other reason, the company shall file another power of attorney pursuant to section 323.

**325.** (1) Service of process and notices on an attorney for an external company appointed under a power of attorney registered under section 323 is legal and binding service on the company, provided that—

(a) where any such company makes default in filing with the Registrar a power of attorney under section 323; or

(b) if at any time all the persons named as attorneys under such power of attorney are dead or have ceased to reside in Trinidad and Tobago or cease to exist or refuse to accept service on behalf of the company or for any reason cannot be served, a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in Trinidad and Tobago.

(2) Subject to the provisions of the Registration of Deeds Act where that Act applies, any deed of any external company registered under this Division which may be executed out of Trinidad and Tobago may be registered in Trinidad and Tobago if executed under the seal of such company or, if no provision is made in the corporate instruments of such company for a seal, if executed on behalf of the company by not less than two officers in accordance with the corporate instruments of such company in the presence of one witness at least; and the execution of such deed and that the seal thereto affixed is the seal of the company or that the signatures of the directors, officers or other persons affixed thereto are the proper signatures of such officers or other persons and that the same was executed in conformity with the corporate instruments of such company may be proved by the affidavit or solemn declaration of one of such witnesses or of the secretary or other officer of the company executing such deed to be sworn or made before a notary public.

(3) Every deed made in Trinidad and Tobago on behalf of any such company and executed under the hand of any person empowered, by instrument in writing under the seal of such company either generally or in respect of any specified matters, as its attorney to execute deeds on its behalf in Trinidad and Tobago, shall be binding on such company and have the same effect as if it were under the seal of the company.

**326.** (1) When the Registrar has, in respect of an external company, received the statements and other documents required under this Act together with the prescribed fees, the Registrar shall issue a certificate showing that the company has been registered as an external company under this Act.

(2) A certificate of registration issued under this section to an external company is conclusive proof of the registration of the company on the date shown in the certificate and of any other facts that the certificate purports to certify.

**327.** Subject to this Division and any other laws of Trinidad and Tobago, an external company that is registered under this Act may carry on its business in Trinidad and Tobago and may exercise its corporate powers within Trinidad and Tobago.

**328.** (*Repealed by Act No.5 of 1997*).

**329.** (1) When an external company ceases to carry on its business in Trinidad and Tobago, the company shall file a notice to that effect with the Registrar, who shall thereupon cancel the registration of the company under this Act.

(2) If an external company ceases to exist or ceases to carry on business in Trinidad and Tobago and the Registrar is made aware of that circumstance by evidence satisfactory to him, the Registrar may cancel the registration of the company under this Act.

**330.** (1) Where the registration of an external company has been cancelled under section 329, the Registrar may revive the registration of the external company under this Act if the company files with him such documents as he may require and pays the prescribed fee.

Failure of power

Capacity of attorney.

Certificate of registration.  
[5 of 1997].

Effect of registration.  
[5 of 1997].

Cancelling registration.  
[5 of 1997].

Revival of registration.

(2) A registration of an external company is revived when the Registrar issues a new certificate of registration to the company.

**331.** Registration or revival of registration under this Act of an external company retroactively makes lawful all previous acts of the company otherwise unlawful by reason only of non-registration as though the company had been registered at the time of those acts but this section does not affect the unlawfulness of any such acts for any other reason or for the purpose of a prosecution for any offence under this Division.

**332. (1)** Where, in the case of an external company registered under this Act—

- (a) the name of the company has been changed;
- (b) the corporate instruments of the company have been altered; or
- (c) the objects of the company have been altered or its business has been restricted,

the company shall, within thirty days after the change has been made, file with the Registrar duly certified copies of the instruments by which the change has been made certified in accordance with section 318(2)(a).

(2) Upon receipt of the duly certified copies referred to in subsection (1) and the prescribed fee, the Registrar shall enter the change in the register.

(3) Within thirty days after a change is made among its directors, an external company shall deliver to the Registrar a notice in the prescribed form setting out the change and the prescribed fee, and the Registrar shall file the notice.

(4) Upon the registration under this section of a change in respect of an external company, the Registrar shall issue to the company a certificate of the change under his hand in a form adapted to the circumstances.

(5) A certificate issued under subsection (4) is admissible in evidence as conclusive proof of the change therein set out.

**333. (1)** An external company shall, not later than thirty days after the anniversary date of its registration under this Act, deliver to the Registrar an annual return in the prescribed form containing the prescribed information made up to such anniversary date and accompanied by the prescribed fees.

(2) A director or officer of the external company shall certify the contents of any return made under this section.

**334. (1)** An external company required to be registered under this Act and which is not registered under this Act may not maintain, without leave of the Court, any action, suit, counterclaim or other proceeding in any court in Trinidad and Tobago but may be made a defendant to a suit.

(2) Notwithstanding subsection (1), when an external company described in that subsection becomes registered under this Act or had its registration restored, as the case may be, the company may then, upon such terms as to costs as the Court may order, maintain an action, suit, counterclaim or other proceeding in respect of the contract described in subsection (1) as though the company had never been disabled under that subsection.

(3) In the case of an external company whose registration has been restored, subsection (2) is subject to the terms of any conditions imposed upon the company, or to the terms of any order of the Court in respect of the restoration of the company's registration.

**335.** Every company to which this Division applies shall—

(a) where it exhibits its name at its principal office in Trinidad and Tobago, cause the jurisdiction in which it is incorporated to be exhibited also, and if the liability of its members is limited, a notice of that fact; and

(b) cause the name of the company and the jurisdiction in which the company is incorporated to be stated in legible characters in all name plates, if any, bill heads and letter paper, and in all notices, advertisements, and other official publications of the company originating in Trinidad and Tobago; and

Returns  
[5 of 1997].

Incapacity of  
company.  
[5 of 1997].

Exhibition of  
company's name.  
[5 of 1997].

Previous  
activities.  
[5 of 1997].

Fundamental  
changes.  
[5 of 1997].

(c) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters in all bill heads, letter paper, notices, advertisements and other official publications of the company in Trinidad and Tobago and to be affixed on every place where it carries on its business.

**336. ( Repealed by Act No. 5 of 1997).**

**337.** The provisions of sections 22 to 27 and 493(b) to (f) and the provisions of Divisions 2 to 4 of Part IV and Divisions 2 and 4 of Part VII apply mutatis mutandis to external companies.

**Division 3—Former-Act Companies**

**338.** This Division does not apply to an external company.

**339. ( Repealed by Act No. 5 of 1997).**

**340. (1)** Subject to subsection (1A), every former-Act company shall, within two years after the commencement date, apply to the Registrar for a certificate of continuance under this Act.

(1A) Every former Act company which is a public company shall, within twelve months after the commencement date, apply to the Registrar for a certificate of continuance under this Act.

**(2) ( Repealed by Act No. 5 of 1997).**

(3) No fee in excess of fifty dollars to defray administration costs may be prescribed in respect of an application and certificate of continuance under this Division.

**341. ( Repealed by Act No. 5 of 1997).**

**342. (1)** Articles of continuance may, without so stating in the articles, effect any amendment to the corporate instruments of a former-Act company if the amendment is an amendment that a company incorporated under this Act can make in its articles.

(2) Articles of continuance in the prescribed form shall be sent to the Registrar together with the documents required by sections 71 and 176.

(3) A shareholder or member may not dissent under section 227 in respect of an amendment made under subsection (1).

Certificate of continuance.

**343. (1)** Upon receipt of an application under this Part, the Registrar may, and, if the applicant complies with all reasonable requirements of the Registrar to have the continued company accord with the requirements of this Act, the Registrar shall issue a certificate of continuance to the former-Act company, in accordance with section 481.

(2) On the date shown in the certificate of continuance—

- (a) the former-Act company becomes a company to which this Act applies as if it had been incorporated under this Act;
- (b) the articles of continuance are the articles of incorporation of the continued company; and
- (c) except for the purposes of section 67(1), the certificate of continuance is the certificate of incorporation of the continued company.

Preservation of company.

**344. (1)** When a former-Act company is continued as a company under this Act—

- (a) the property of the former-Act company continues to be the property of the company;
- (b) the company continues to be liable for the obligations of the former-Act company;
- (c) an existing cause of action, claim or liability to prosecute is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the former-Act company may be continued by or against the company; and
- (e) a conviction against, or ruling, order or judgment in favour of or against, the former-Act company may be enforced by or against the company.

Other provisions, [5 of 1997].

Application of Division, [5 of 1997].

Continuation of company, [5 of 1997].

Articles of continuance.

(2) When the Registrar determines, on the application of a former-Act company, that it is not practicable to change a reference to the nominal or par value of shares of a class or series that the former-Act company was authorized to issue before it was continued as a company under this Act, the Registrar may, notwithstanding section 30, permit the company to continue to refer in its articles to those shares, whether issued or non-issued as shares having a nominal or par value.

(3) A company shall set out in its articles the maximum number of shares of a class or series referred to in subsection (2); and it may not amend its articles to increase that maximum number of shares or to change the nominal or par value of the shares.

**345.** (1) A share of a former-Act company issued before the company was continued under this Act is presumed to have been issued in compliance with this Act and with the provisions of the articles of continuance, irrespective of whether the share is fully paid, and irrespective of any designation, rights, privileges, restrictions or conditions attached to the share, or set out on, or referred to in, the certificate representing the share; and continuance under this Act does not deprive a shareholder of any right or privilege that he claims under an issued share of the company, nor does it relieve him of any liability in respect of an issued share of the company.

(2) For the purposes of this section, "share" includes an instrument recording conversion privileges, options, or rights to acquire shares.

**346.** (1) When a former-Act company fails to apply to the Registrar for a certificate of continuance within the time limited therefor under section 340, then, after the expiration of that period—

- (a) the former-Act company may not, without leave, sue or counterclaim in any court but may be made a defendant to a suit;
- (b) no dividend may be paid to any shareholder of the former-Act company without leave of the Court; and
- (c) every director of the former-Act company is liable to a penalty of one hundred dollars a day for each day during which the former-Act company carries on its business thereafter.

Previous  
shares.  
[5 of 1997].

Non-continuant's  
disability.  
[5 of 1997].

(2) Notwithstanding subsection (1), when a company described in that subsection is issued a certificate of continuance, the company may then, upon such terms as to costs as the Court may order, maintain an action, suit or other proceeding as though the company had never been disabled under that subsection.

**347.** (*Repealed by Act No. 5 of 1997.*)

**PART VI**

**WINDING UP**

**Division 1—Preliminary**

**348.** (1) The winding up of a company may be either—

- (a) by the Court; or
- (b) voluntary.

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

Modes of  
winding up.

Liability of  
members.  
[5 of 1997].

**349.** (1) Subject to this section, in the event of a company being wound up every present or past member is 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 the adjustment of the rights of the contributories among themselves.

(2) Subsection (1) is subject to the following limitations, namely:

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