

ACT NO. IV OF 1910.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 25th
February 1910.)*

An Act further to amend the Indian Companies Act, 1882.

VI of 1882. **WHEREAS** it is expedient further to amend the Indian Companies Act, 1882; It is hereby enacted as follows:—

1. This Act may be called the Indian Companies (Amendment) Act, 1910. Short title.

VI of 1882. 2. After section 73 of the Indian Companies Act, 1882, the following shall be inserted, namely:— Insertion of new sections after section 73.

“ Payment of interest out of capital.

“73A. Where any shares of a Company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the Company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant: Power of Company to pay interest out of capital in certain cases.

Provided that—

(1) no such payment shall be made unless the same is authorized by the Company's articles of association or by special resolution;

(2) no such payment, whether authorized by the articles of association or by special resolution, shall be made without the previous sanction

sanction of the Governor General in Council;

- (3) before sanctioning any such payment, the Governor General in Council may, at the expense of the Company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the Company to give security for the payment of the costs of the inquiry;
- (4) the payment shall be made only for such period as may be determined by the Governor General in Council, and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided;
- (5) the rate of interest shall in no case exceed four per cent. per annum or such lower rate as the Governor General in Council may, by notification in the Gazette of India, prescribe;
- (6) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
- (7) the accounts of the Company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate;
- (8) nothing in this section shall affect any Company to which the Indian Railway Companies Act, 1895, or the Indian Tramways Act, 1902, applies.

X of 1895.
IV of 1902.

Re-issue of Redeemed Debentures.

Power to re-issue redeemed debentures in certain cases.

“73B. (1) Where either before or after the passing of this Act a Company has redeemed any debentures

debentures previously issued, the Company, unless the articles of association or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do (not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns), shall have power, and shall be deemed always to have had power, to keep the debentures alive for the purposes of re-issue, and where a Company has purported to exercise such a power the Company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place, and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue they have either before or after the passing of this Act been transferred to a nominee of the Company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a Company has either before or after the passing of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the Company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a Company, whether the re-issue or issue was made before or after the passing of this Act, shall be treated as the issue of a new debenture for the purposes of stamp-duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued:

Provided

Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp-duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the Company shall be liable to pay the proper stamp-duty and penalty.

(5) Nothing in this section shall prejudice—

- (a) the operation of any decree or order of a Court of competent jurisdiction passed or made before the date of the passing of this Act as between the parties to the proceedings in which the decree was passed or the order made, and any appeal from any such decree or order shall be decided as if this Act had not been passed; or
- (b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a Company by its debentures or the securities for the same."