



Companies Clauses Act 1863

1863 CHAPTER 118 26 and 27 Vict

PART III **U.K.**

DEBENTURE STOCK

Modifications etc. (not altering text)

- C1** Pt. III (ss. 22-35) excluded (5.7.1994) by 1994 c. viii, s. 11
Pt. III (ss. 22-35) incorporated in part (5.7.1994) by 1994 c. viii, s. 4(1)(b)(v)

22 Regulations as to creation and issue of debenture stock. **U.K.**

Where any company, incorporated either before or after the passing of this Act for the purpose of carrying on any undertaking, is authorized by any special Act hereafter passed, and incorporating this part of this Act, to create and issue debenture stock,— then and in every such case the company, with the sanction of such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a meeting of the company specially convened for the purpose, as is prescribed in the special Act, and, if no proportion is prescribed, then of three fifths of such votes, may from time to time raise all or any part of the money which for the time being they have raised, or are authorized to raise, on mortgage or bond, by the creation and issue, at such times, in such amounts and manner, on such terms, subject to such conditions, and with such rights and privileges, as the company thinks fit, of stock to be called debenture stock, instead of and to the same amount as the whole or part of the money which may for the time being be owing by the company on mortgage or bond, or which they may from time to time have power to raise on mortgage or bond, and may attach to the stock so created such fixed and perpetual preferential interest . . . ^{F1}, payable half-yearly or otherwise, and commencing at once, or at any future time or times, when and as the debenture stock is issued, or otherwise, as the company thinks fit.

Changes to legislation: There are currently no known outstanding effects for the Companies Clauses Act 1863, Part III. (See end of Document for details)

Textual Amendments

F1 Words repealed by [Statute Law Revision Act 1875 \(c.66\)](#)

23 **Debenture stock to be a prior charge.** U.K.

Debenture stock, with the interest thereon, shall be a charge upon the undertaking of the company, prior to all shares or stock of the company, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the company, and shall in all other respects have the incidents of personal estate.

24 **Interest on debenture stock to be a primary charge.** U.K.

The interest on debenture stock shall have priority of payment over all dividends or interest on any shares or stock of the company, whether ordinary or preference or guaranteed, and shall rank next to the interest payable on the mortgages or bonds for the time being of the company legally granted before the creation of such stock; but the holders of debenture stock shall not, as among themselves, be entitled to any preference or priority.

25 **Payment of arrears may be enforced by appointment of Receiver or Judicial Factor.** U.K.

If within thirty days after the interest on any such debenture stock is payable the same is not paid, any one or more of the holders of the debenture stock holding, individually or collectively, the sum in nominal amount thereof prescribed in the special Act, and if no sum is prescribed, then a sum equal to one tenth of the aggregate amount which the company is for the time being authorized to raise by mortgage, by bond, and by debenture stock, or the sum of ten thousand pounds, whichever of the two last-mentioned sums is the smaller sum, may (without prejudice to the right to sue in any court of competent jurisdiction for the interest in arrear) require the appointment in England or Ireland of a receiver, and in Scotland of a judicial factor.

26 **Mode of appointing Receiver or Judicial Factor.** U.K.

Every such application for a receiver shall be made to two justices, and every such application for a judicial factor shall be made to the Court of Session; and on any such application the justices or court (as the case may be), by order in writing, after hearing the parties, may appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of the interest, until all the arrears of interest then due on the debenture stock, with all costs, including the charges of receiving the tolls or sums, are fully paid; and upon such appointment being made all such tolls or sums shall be paid to and received by the person so appointed; and all money so received shall be deemed so much money received by or to the use of the several persons interested in the same, according to their several priorities.

The receiver or judicial factor shall distribute rateably and without priority, among all the proprietors of debenture stock to whom interest is in arrear, the money which so comes to his hands, after applying a sufficient part thereof in or towards satisfaction of the interest on the mortgages and bonds of the company.

Changes to legislation: There are currently no known outstanding effects for the Companies Clauses Act 1863, Part III. (See end of Document for details)

As soon as the full amount of interest and costs has been so received, the power of the receiver or judicial factor shall cease; and he shall be bound to account to the company for his acts or intrusions or the sums received by him, and to pay over to the company any balance that may be in his hands.

27 Arrears may be recovered by action or suit. U.K.

If the interest on debenture stock is in arrear for thirty days next after any of the respective days whereon the same is payable, the holder for the time being thereof may (without prejudice to his power to apply for the appointment of a receiver or judicial factor) recover the arrears with costs by action or suit against the company in any court of competent jurisdiction.

28 Debenture stock to be registered. U.K.

The company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall be accessible for inspection and perusal at all reasonable times to every mortgagee, bondholder, debenture stockholder, shareholder, and stockholder of the company, without the payment of any fee or charge.

Modifications etc. (not altering text)

C2 S. 28 excluded (5.7.1994) by 1994 c. viii, s. 23

29 Company to deliver certificate to holders of debenture stock. U.K.

The company shall deliver to every holder of debenture stock a certificate stating the amount of debenture stock held by him; and all regulations or provisions for the time being applicable to certificates of shares in the capital of the company shall apply, mutatis mutandis, to certificates of debenture stock.

30 Mortgages, not affected by this Act. U.K.

Nothing herein or in the special Act authorizing the issue of debenture stock contained shall in any way affect any mortgage or bond at any time legally granted by the company before the creation of such stock, or any power of the company to raise money on mortgage or bond; but the holders of all such mortgages and bonds shall, during the continuance thereof respectively, be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if the special Act authorizing the issue of debenture stock had not been passed.

31 Holders of debenture stock not to vote. U.K.

Debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the company, or confer any qualification, but shall, in all respects not otherwise by or under this Act or the special Act provided for, be considered as

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entitling the holders to the rights and powers of mortgagees of the undertaking other than the right to require repayment of the principal money paid up in respect of the debenture stock.

32 Application of money raised. U.K.

Money raised by debenture stock shall be applied exclusively either in paying off money due by the company on mortgage or bond, or else for the purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock.

33 Separate accounts of debenture stock. U.K.

Separate and distinct accounts shall be kept by the company, showing how much money has been received for or on account of debenture stock, and how much money borrowed or owing on mortgage or bond, or which they have power so to borrow, has been paid off by debenture stock, or raised thereby, instead of being borrowed on mortgage or bond.

34 Borrowing powers extinguished to extent of debenture stock. U.K.

The powers of borrowing and re-borrowing by the company shall, to the extent of the money raised by the issue of debenture stock, be extinguished.

35 Application of Part III. to mortgage preference stock, and funded debt. U.K.

The provisions of this part of this Act shall be deemed to apply to mortgage preference stock, and to funded debt, as the case may require, in all respects as if mortgage preference stock or funded debt were mentioned throughout this part of this Act wherever debenture stock is mentioned therein.

Changes to legislation:

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