



Companies Act 1948

1948 CHAPTER 38 11 and 12 Geo 6

PART V

WINDING UP.

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP

Special Provisions as to Stannaries.

358 Preferential payments in stannaries cases.

- (1) In the application to companies within the stannaries of the provisions of this Act with respect to preferential payments, the following modifications shall be made:—
- (a) in the case of a clerk or servant of such a company, the priority with respect to wages and salary given by this Act shall not extend to the principal agent, manager, purser or secretary;
 - (b) all wages in relation to the mine of a miner, artizan, or labourer employed in or about the mine, including all earnings by a miner arising from any description of piece or other work, or as a tributer or otherwise, but not exceeding an amount equal to four months wages, shall be included amongst the payments which are, under this Act, to be made in priority to other debts;
 - (c) the following debts, that is to say:—
 - (i) wages of any miner, artizan or labourer and accrued holiday remuneration becoming payable to or in right of any miner, artizan or labourer as mentioned in paragraph (d) of subsection (1) of section three hundred and nineteen of this Act, being wages or remuneration unpaid at the commencement of the winding up;
 - (ii) all such amounts due in respect of contributions payable in respect of a miner under the enactments mentioned in paragraph (e) of the said subsection (1) as are given priority by that paragraph; and
 - (iii) all such amounts due in respect of any compensation or liability for compensation under the Workmen's Compensation Act, 1925,

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payable to a miner or the dependants of a miner as are given priority by paragraph (f) of the said subsection (1);

shall be paid by the liquidator forthwith in priority to all costs, except (in the case of a winding up by the court) such costs of and incidental to the making of the winding up order as in the opinion of the court have been properly incurred, and to all claims by mortgagees, execution creditors, or any other persons, except the claims of clerks and servants in respect of their wages or salary or accrued holiday remuneration due to them;

- (d) subject as aforesaid, the court may, by order, charge the whole or any part of the assets of the company, in priority to all claims and to all existing mortgages or charges thereon, with the payment of a sum sufficient to discharge the debts to be paid in priority under the last foregoing paragraph, together with interest thereon at a rate not exceeding five per cent. per annum, and this charge may be made in favour of any person who is willing to advance the requisite amount or any part thereof, and as soon as the said sum has been so advanced, the said debts shall be paid without delay so far as the amount advanced extends, and in such order of payment as the court directs;
 - (e) the provision giving a right of priority to a person who has advanced money for the making of payments on account of wages, salary or accrued holiday remuneration shall have effect subject to the modifications contained in this section.
- (2) References in the foregoing subsection to wages shall be construed as including references to such remuneration in respect of a period of holiday or absence from work as is deemed for the purposes of section three hundred and nineteen of this Act to be wages, and for the purposes of that subsection the expression “accrued holiday remuneration ” has the same meaning as it has for the purposes of that section.
- (3) The foregoing provisions of this section shall not apply in the case of such a winding up as is mentioned in subsection (9) of the said section three hundred and nineteen, and in such a case the provisions which, by virtue of that subsection, are deemed to remain in force shall have effect in their application to companies within the stannaries subject to the modifications subject to which they would have had effect if this Act had not passed.