



# Companies Act 2006

## 2006 CHAPTER 46

### PART 21

#### CERTIFICATION AND TRANSFER OF SECURITIES

#### CHAPTER 1

##### CERTIFICATION AND TRANSFER OF SECURITIES: GENERAL

##### *Share certificates*

#### **768 Share certificate to be evidence of title**

- (1) In the case of a company registered in England and Wales or Northern Ireland, a certificate under the common seal of the company specifying any shares held by a member is prima facie evidence of his title to the shares.
- (2) In the case of a company registered in Scotland—
  - (a) a certificate under the common seal of the company specifying any shares held by a member, or
  - (b) a certificate specifying any shares held by a member and subscribed by the company in accordance with the Requirements of Writing (Scotland) Act 1995 (c. 7),is sufficient evidence, unless the contrary is shown, of his title to the shares.

##### *Issue of certificates etc on allotment*

#### **769 Duty of company as to issue of certificates etc on allotment**

- (1) A company must, within two months after the allotment of any of its shares, debentures or debenture stock, complete and have ready for delivery—

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- (a) the certificates of the shares allotted,
  - (b) the debentures allotted, or
  - (c) the certificates of the debenture stock allotted.
- (2) Subsection (1) does not apply—
- (a) if the conditions of issue of the shares, debentures or debenture stock provide otherwise,
  - (b) in the case of allotment to a financial institution (see section 778), or
  - (c) in the case of an allotment of shares if, following the allotment, the company has issued a share warrant in respect of the shares (see section 779).
- (3) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

### *Transfer of securities*

#### **770 Registration of transfer**

- (1) A company may not register a transfer of shares in or debentures of the company unless—
- (a) a proper instrument of transfer has been delivered to it, or
  - (b) the transfer—
    - (i) is an exempt transfer within the Stock Transfer Act 1982 (c. 41), or
    - (ii) is in accordance with regulations under Chapter 2 of this Part.
- (2) Subsection (1) does not affect any power of the company to register as shareholder or debenture holder a person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

#### **771 Procedure on transfer being lodged**

- (1) When a transfer of shares in or debentures of a company has been lodged with the company, the company must either—
- (a) register the transfer, or
  - (b) give the transferee notice of refusal to register the transfer, together with its reasons for the refusal,
- as soon as practicable and in any event within two months after the date on which the transfer is lodged with it.
- (2) If the company refuses to register the transfer, it must provide the transferee with such further information about the reasons for the refusal as the transferee may reasonably request.

This does not include copies of minutes of meetings of directors.

- (3) If a company fails to comply with this section, an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.

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- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.
- (5) This section does not apply—
- (a) in relation to a transfer of shares if the company has issued a share warrant in respect of the shares (see section 779);
  - (b) in relation to the transmission of shares or debentures by operation of law.

#### **772 Transfer of shares on application of transferor**

On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

#### **773 Execution of share transfer by personal representative**

An instrument of transfer of the share or other interest of a deceased member of a company—

- (a) may be made by his personal representative although the personal representative is not himself a member of the company, and
- (b) is as effective as if the personal representative had been such a member at the time of the execution of the instrument.

#### **774 Evidence of grant of probate etc**

The production to a company of any document that is by law sufficient evidence of the grant of—

- (a) probate of the will of a deceased person,
- (b) letters of administration of the estate of a deceased person, or
- (c) confirmation as executor of a deceased person,

shall be accepted by the company as sufficient evidence of the grant.

#### **775 Certification of instrument of transfer**

- (1) The certification by a company of an instrument of transfer of any shares in, or debentures of, the company is to be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on their face show a prima facie title to the shares or debentures in the transferor named in the instrument.
- (2) The certification is not to be taken as a representation that the transferor has any title to the shares or debentures.
- (3) Where a person acts on the faith of a false certification by a company made negligently, the company is under the same liability to him as if the certification had been made fraudulently.
- (4) For the purposes of this section—

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- (a) an instrument of transfer is certificated if it bears the words “certificate lodged” (or words to the like effect);
- (b) the certification of an instrument of transfer is made by a company if—
  - (i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the company’s behalf, and
  - (ii) the certification is signed by a person authorised to certificate transfers on the company’s behalf or by an officer or employee either of the company or of a body corporate so authorised;
- (c) a certification is treated as signed by a person if—
  - (i) it purports to be authenticated by his signature or initials (whether handwritten or not), and
  - (ii) it is not shown that the signature or initials was or were placed there neither by himself nor by a person authorised to use the signature or initials for the purpose of certifying transfers on the company’s behalf.

*Issue of certificates etc on transfer*

**776 Duty of company as to issue of certificates etc on transfer**

- (1) A company must, within two months after the date on which a transfer of any of its shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery—
  - (a) the certificates of the shares transferred,
  - (b) the debentures transferred, or
  - (c) the certificates of the debenture stock transferred.
- (2) For this purpose a “transfer” means—
  - (a) a transfer duly stamped and otherwise valid, or
  - (b) an exempt transfer within the Stock Transfer Act 1982 (c. 41),
 but does not include a transfer that the company is for any reason entitled to refuse to register and does not register.
- (3) Subsection (1) does not apply—
  - (a) if the conditions of issue of the shares, debentures or debenture stock provide otherwise,
  - (b) in the case of a transfer to a financial institution (see section 778), or
  - (c) in the case of a transfer of shares if, following the transfer, the company has issued a share warrant in respect of the shares (see section 779).
- (4) Subsection (1) has effect subject to section 777 (cases where the Stock Transfer Act 1982 applies).
- (5) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.
- (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

### **777 Issue of certificates etc: cases within the Stock Transfer Act 1982**

- (1) Section 776(1) (duty of company as to issue of certificates etc on transfer) does not apply in the case of a transfer to a person where, by virtue of regulations under section 3 of the Stock Transfer Act 1982, he is not entitled to a certificate or other document of or evidencing title in respect of the securities transferred.
- (2) But if in such a case the transferee—
  - (a) subsequently becomes entitled to such a certificate or other document by virtue of any provision of those regulations, and
  - (b) gives notice in writing of that fact to the company,section 776 (duty to company as to issue of certificates etc) has effect as if the reference in subsection (1) of that section to the date of the lodging of the transfer were a reference to the date of the notice.

#### *Issue of certificates etc on allotment or transfer to financial institution*

### **778 Issue of certificates etc: allotment or transfer to financial institution**

- (1) A company—
  - (a) of which shares or debentures are allotted to a financial institution,
  - (b) of which debenture stock is allotted to a financial institution, or
  - (c) with which a transfer for transferring shares, debentures or debenture stock to a financial institution is lodged,is not required in consequence of that allotment or transfer to comply with section 769(1) or 776(1) (duty of company as to issue of certificates etc).
- (2) A “financial institution” means—
  - (a) a recognised clearing house acting in relation to a recognised investment exchange, or
  - (b) a nominee of—
    - (i) a recognised clearing house acting in that way, or
    - (ii) a recognised investment exchange,designated for the purposes of this section in the rules of the recognised investment exchange in question.
- (3) Expressions used in subsection (2) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000 (c. 8).

#### *Share warrants*

### **779 Issue and effect of share warrant to bearer**

- (1) A company limited by shares may, if so authorised by its articles, issue with respect to any fully paid shares a warrant (a “share warrant”) stating that the bearer of the warrant is entitled to the shares specified in it.
- (2) A share warrant issued under the company’s common seal or (in the case of a company registered in Scotland) subscribed in accordance with the Requirements of Writing (Scotland) Act 1995 (c. 7) entitles the bearer to the shares specified in it and the shares may be transferred by delivery of the warrant.

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- (3) A company that issues a share warrant may, if so authorised by its articles, provide (by coupons or otherwise) for the payment of the future dividends on the shares included in the warrant.

**780 Duty of company as to issue of certificates on surrender of share warrant**

- (1) A company must, within two months of the surrender of a share warrant for cancellation, complete and have ready for delivery the certificates of the shares specified in the warrant.
- (2) Subsection (1) does not apply if the company's articles provide otherwise.
- (3) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

**781 Offences in connection with share warrants (Scotland)**

- (1) If in Scotland a person—
- (a) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon issued in pursuance of this Act, or
  - (b) by means of any such forged or altered share warrant, coupon or document—
    - (i) demands or endeavours to obtain or receive any share or interest in a company under this Act, or
    - (ii) demands or endeavours to receive any dividend or money payment in respect of any such share or interest,
 knowing the warrant, coupon or document to be forged or altered,
 

he commits an offence.
- (2) If in Scotland a person without lawful authority or excuse (of which proof lies on him) —
- (a) engraves or makes on any plate, wood, stone, or other material, any share warrant or coupon purporting to be—
    - (i) a share warrant or coupon issued or made by any particular company in pursuance of this Act, or
    - (ii) a blank share warrant or coupon so issued or made, or
    - (iii) a part of such a share warrant or coupon, or
  - (b) uses any such plate, wood, stone, or other material, for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon or of any part of such a share warrant or coupon, or
  - (c) knowingly has in his custody or possession any such plate, wood, stone, or other material,
- he commits an offence.

- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale (or both).
- (4) A person guilty of an offence under subsection (2) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

### *Supplementary provisions*

#### **782 Issue of certificates etc: court order to make good default**

- (1) If a company on which a notice has been served requiring it to make good any default in complying with—
- (a) section 769(1) (duty of company as to issue of certificates etc on allotment),
  - (b) section 776(1) (duty of company as to issue of certificates etc on transfer), or
  - (c) section 780(1) (duty of company as to issue of certificates etc on surrender of share warrant),
- fails to make good the default within ten days after service of the notice, the person entitled to have the certificates or the debentures delivered to him may apply to the court.
- (2) The court may on such an application make an order directing the company and any officer of it to make good the default within such time as may be specified in the order.
- (3) The order may provide that all costs (in Scotland, expenses) of and incidental to the application are to be borne by the company or by an officer of it responsible for the default.

## **CHAPTER 2**

### EVIDENCING AND TRANSFER OF TITLE TO SECURITIES WITHOUT WRITTEN INSTRUMENT

#### *Introductory*

#### **783 Scope of this Chapter**

In this Chapter—

- (a) “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 (c. 8) and other securities of any description;
- (b) references to title to securities include any legal or equitable interest in securities;
- (c) references to a transfer of title include a transfer by way of security;
- (d) references to transfer without a written instrument include, in relation to bearer securities, transfer without delivery.

#### **784 Power to make regulations**

- (1) The power to make regulations under this Chapter is exercisable by the Treasury and the Secretary of State, either jointly or concurrently.
- (2) References in this Chapter to the authority having power to make regulations shall accordingly be read as references to both or either of them, as the case may require.
- (3) Regulations under this Chapter are subject to affirmative resolution procedure.

#### *Powers exercisable*

#### **785 Provision enabling procedures for evidencing and transferring title**

- (1) Provision may be made by regulations for enabling title to securities to be evidenced and transferred without a written instrument.
- (2) The regulations may make provision—
  - (a) for procedures for recording and transferring title to securities, and
  - (b) for the regulation of those procedures and the persons responsible for or involved in their operation.
- (3) The regulations must contain such safeguards as appear to the authority making the regulations appropriate for the protection of investors and for ensuring that competition is not restricted, distorted or prevented.
- (4) The regulations may, for the purpose of enabling or facilitating the operation of the procedures provided for by the regulations, make provision with respect to the rights and obligations of persons in relation to securities dealt with under the procedures.
- (5) The regulations may include provision for the purpose of giving effect to—
  - (a) the transmission of title to securities by operation of law;
  - (b) any restriction on the transfer of title to securities arising by virtue of the provisions of any enactment or instrument, court order or agreement;
  - (c) any power conferred by any such provision on a person to deal with securities on behalf of the person entitled.
- (6) The regulations may make provision with respect to the persons responsible for the operation of the procedures provided for by the regulations—
  - (a) as to the consequences of their insolvency or incapacity, or
  - (b) as to the transfer from them to other persons of their functions in relation to those procedures.

#### **786 Provision enabling or requiring arrangements to be adopted**

- (1) Regulations under this Chapter may make provision—
  - (a) enabling the members of a company or of any designated class of companies to adopt, by ordinary resolution, arrangements under which title to securities is required to be evidenced or transferred (or both) without a written instrument;  
or
  - (b) requiring companies, or any designated class of companies, to adopt such arrangements.



- (2) The regulations may make such provision—
  - (a) in respect of all securities issued by a company, or
  - (b) in respect of all securities of a specified description.
- (3) The arrangements provided for by regulations making such provision as is mentioned in subsection (1)—
  - (a) must not be such that a person who but for the arrangements would be entitled to have his name entered in the company's register of members ceases to be so entitled, and
  - (b) must be such that a person who but for the arrangements would be entitled to exercise any rights in respect of the securities continues to be able effectively to control the exercise of those rights.
- (4) The regulations may—
  - (a) prohibit the issue of any certificate by the company in respect of the issue or transfer of securities,
  - (b) require the provision by the company to holders of securities of statements (at specified intervals or on specified occasions) of the securities held in their name, and
  - (c) make provision as to the matters of which any such certificate or statement is, or is not, evidence.
- (5) In this section—
  - (a) references to a designated class of companies are to a class designated in the regulations or by order under section 787; and
  - (b) “specified” means specified in the regulations.

**787 Provision enabling or requiring arrangements to be adopted: order-making powers**

- (1) The authority having power to make regulations under this Chapter may by order—
  - (a) designate classes of companies for the purposes of section 786 (provision enabling or requiring arrangements to be adopted);
  - (b) provide that, in relation to securities of a specified description—
    - (i) in a designated class of companies, or
    - (ii) in a specified company or class of companies,specified provisions of regulations made under this Chapter by virtue of that section either do not apply or apply subject to specified modifications.
- (2) In subsection (1) “specified” means specified in the order.
- (3) An order under this section is subject to negative resolution procedure.

*Supplementary*

**788 Provision that may be included in regulations**

Regulations under this Chapter may—

- (a) modify or exclude any provision of any enactment or instrument, or any rule of law;

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- (b) apply, with such modifications as may be appropriate, the provisions of any enactment or instrument (including provisions creating criminal offences);
- (c) require the payment of fees, or enable persons to require the payment of fees, of such amounts as may be specified in the regulations or determined in accordance with them;
- (d) empower the authority making the regulations to delegate to any person willing and able to discharge them any functions of the authority under the regulations.

**789 Duty to consult**

Before making—

- (a) regulations under this Chapter, or
- (b) any order under section 787,

the authority having power to make regulations under this Chapter must carry out such consultation as appears to it to be appropriate.

**790 Resolutions to be forwarded to registrar**

Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution passed by virtue of regulations under this Chapter.