
STATUTORY INSTRUMENTS

1986 No. 1032

The Companies (Northern Ireland) Order 1986 (revoked)

PART VI

SHARE CAPITAL, ITS INCREASE, MAINTENANCE AND REDUCTION

CHAPTER VIII

MISCELLANEOUS PROVISIONS ABOUT SHARES AND DEBENTURES

Debentures

F1 Order repealed (prosp.) by [Companies Act 2006 \(c. 46\), ss. 1284\(2\), 1295, 1300\(2\), Sch. 16](#) and the repeal being partly in force, as to which see individual Articles (with savings (with adaptations) by Companies Act 2006 (Commencement No. 6, Saving and Commencement Nos. 3 and 5 (Amendment)) Order 2008 (S.I. 2008/674), arts. 2(3), {4}, Sch. 2) and subject to amendments (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\), arts. 2\(2\), 3\(1\)\(b\)\(2\), Sch. 1 paras. 135, 147, 148 {Sch. 2 Note 1}](#) (with arts. 6, 11, 12) and subject to amendments (6.4.2008) by [S.R. 2008/133, {regs. 2, 3}](#)

Register of debenture holders

199^{F1}.—(1) Neither a register of holders of debentures of a company nor a duplicate of any such register or part of any such register which is kept outside Northern Ireland shall, if kept in Northern Ireland, be kept elsewhere than—

- (a) at the company's registered office; or
- (b) at any office of the company at which the work of making it up is done; or
- (c) if the company arranges with some other person for the making up of the register or duplicate to be undertaken on its behalf by that other person, at the office of that other person at which the work is done.

(2) Where a company keeps in Northern Ireland both such a register and such a duplicate, it shall keep them at the same place.

(3) Every company which keeps any such register or duplicate in Northern Ireland shall send to the registrar notice (in the prescribed form) of the place where the register or duplicate is kept and of any change in that place.

(4) But a company is not bound to send notice under paragraph (3) where the register or duplicate has, at all times since it came into existence, been kept at the company's registered office.

(5) Where a company makes default in complying with paragraph (1) or (2) or makes default for 14 days in complying with paragraph (3), the company and every officer of the company who is in default is liable to a fine and, for continued contravention, to a daily default fine.

*Status: Point in time view as at 01/10/2007.**Changes to legislation: There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1986 (revoked), Cross Heading: Debentures. (See end of Document for details)*

(6) Where the register of holders of debentures of the company is kept at the office of some person other than the company and by reason of any default of his the company makes default in complying with paragraph (1), (2) or (3), that other person is liable to the same penalty as if he were an officer of the company who was in default.

F1 mod. by SR 2004/307

Right to inspect register

200.—(1) Every register of holders of debentures of a company shall, except when duly closed^{F2} . . . , be open to the inspection—

- (a) ^{F3} of the registered holder of any such debentures or any holder of shares in the company without fee; and
- (b) of any other person on payment of^{F2} such fee as may be prescribed].

(2) ^{F3} Any such registered holder of debentures or holder of shares, or any other person, may require a copy of the register of the holders of debentures of the company or any part of it, on payment of^{F2} such fee as may be prescribed.]

(3) A copy of any trust deed for securing an issue of debentures shall be forwarded to every holder of any such debentures at his request on payment^{F2} of such fee as may be prescribed.]

Sub-paras. (a), (b) rep. by 1990 NI 10

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

(5) Where a company is in default as mentioned in paragraph (4), the court may by order compel an immediate inspection of the register or direct that the copies required be sent to the person requiring them.

(6) ^{F3} For the purposes of this Article, a register is deemed to be duly closed if closed in accordance with provisions contained in the company's articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole 30 days in any year, as may be therein specified.

(7) Liability incurred by a company from the making or deletion of an entry in its register of debenture holders, or from a failure to make or delete any such entry, is not enforceable more than 20 years after the date on which the entry was made or deleted or, in the case of any such failure, the failure first occurred.

This is without prejudice to any lesser period of limitation.

F2 1990 NI 10

F3 mod. by SR 2004/307

Liability of trustees of debentures

201 ^{F4}.—(1) Subject to this Article, any provision contained—

- (a) in a trust deed for securing an issue of debentures, or
- (b) in any contract with the holders of debentures secured by a trust deed,

is void in so far as it would have the effect of exempting a trustee of the deed from, or indemnifying him against, liability for breach of trust where he fails to show the degree of care and diligence

required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.

(2) Paragraph (1) does not invalidate—

- (a) a release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or
- (b) any provision enabling such a release to be given—
 - (i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose, and
 - (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

(3) Paragraph (1) does not operate—

- (a) to invalidate any provision in force on 1st April 1961 so long as any person then entitled to the benefit of that provision or afterwards given the benefit of that provision under paragraph (4) remains a trustee of the deed in question, or
- (b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.

(4) While any trustee of a trust deed remains entitled to the benefit of a provision saved by paragraph (3), the benefit of that provision may be given either—

- (a) to all trustees of the deed, present and future; or
- (b) to any named trustees or proposed trustees of it,

by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, a meeting summoned for the purpose in any manner approved by the court.

F4 mod. by SR 2004/307

Perpetual debentures

202^{F5}. A condition contained in debentures, or in a deed for securing debentures, is not invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency (however remote), or on the expiration of a period (however long), any rule of equity to the contrary notwithstanding.

This applies to debentures whenever issued, and to deeds whenever executed.

F5 mod. by SR 2004/307

Power to re-issue redeemed debentures

203.—(1) Where (at any time) a company has redeemed debentures previously issued, then—

- (a)^{F6} unless provision to the contrary, whether express or implied, is contained in its articles or in any contract entered into by the company; or
- (b)^{F6} unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

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the company has, and is 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.

(2) On a re-issue of redeemed debentures, the person entitled to the debentures has, and is deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has (at any time) deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures are not deemed to have been redeemed by reason only of the company's account having ceased to be in debit while the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under the power which by this Article is given to or deemed to be possessed by a company is to be treated as the issue of a new debenture for the purposes of stamp duty; but it is not to be so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

This applies whenever the issue or re-issue was made.

(5) A person lending money on the security of a debenture re-issued under this Article 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 of it, unless he had notice (or, but for his negligence, might have discovered) that the debenture was not duly stamped; but in that case the company is liable to pay the proper stamp duty and penalty.

F6 mod. by SR 2004/307

Contract to subscribe for debentures

204 ^{F7}. A contract with a company to take up and pay for debentures of the company may be enforced by an order for specific performance.

F7 mod. by SR 2004/307

Payment of debts out of assets subject to floating charge

[^{F8}**205**].—[^{F8F9F8}(1) This Article applies where debentures of the company are secured by a charge which, as created, was a floating charge.

(2) If possession is taken, by or on behalf of the holders of any of the debentures, of any property comprised in or subject to the charge, and the company is not at that time in course of being wound up, the company's preferential debts shall be paid out of assets coming to the hands of the person taking possession in priority to any claims for principal or interest in respect of the debentures.

(3) “Preferential debts” means the categories of debts listed in Schedule 4 to the Insolvency Order; and for the purposes of that Schedule “the relevant date” is the date of possession being taken as mentioned in paragraph (2).

(4) Payments made under this Article shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.]

F8 1989 NI 19

F9 mod. by SR 2004/307

Status:

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