



Companies Act 1985

1985 CHAPTER 6

PART V

SHARE CAPITAL, ITS INCREASE, MAINTENANCE AND REDUCTION

CHAPTER VI

FINANCIAL ASSISTANCE BY A COMPANY FOR ACQUISITION OF ITS OWN SHARES

Provisions applying to both public and private companies

152 Definitions for this Chapter

(1) In this Chapter—

(a) " financial assistance " means—

- (i) financial assistance given by way of gift,
- (ii) financial assistance given by way of guarantee, security or indemnity, other than an indemnity in respect of the indemnifier's own neglect or default, or by way of release or waiver,
- (iii) financial assistance given by way of a loan or any other agreement under which any of the obligations of the person giving the assistance are to be fulfilled at a time when in accordance with the agreement any obligation of another party to the agreement remains unfulfilled, or by way of the novation of, or the assignment of rights arising under, a loan or such other agreement, or
- (iv) any other financial assistance given by a company the net assets of which are thereby reduced to a material extent or which has no net assets ;

(b) " distributable profits ", in relation to the giving of any financial assistance—

- (i) means those profits out of which the company could lawfully make a distribution equal in value to that assistance, and

Status: This is the original version (as it was originally enacted).

- (ii) includes, in a case where the financial assistance is or includes a non-cash asset, any profit which, if the company were to make a distribution of that asset, would under section 276 (distributions in kind) be available for that purpose. and
 - (c) " distribution " has the meaning given by section 263(2).
- (2) In subsection (1)(a)(iv), " net assets" means the aggregate of the company's assets, less the aggregate of its liabilities (" liabilities " to include any provision for liabilities or charges within paragraph 89 of Schedule 4).
- (3) In this Chapter—
 - (a) a reference to a person incurring a liability includes his changing his financial position by making an agreement or arrangement (whether enforceable or unenforceable, and whether made on his own account or with any other person) or by any other means, and
 - (b) a reference to a company giving financial assistance for the purpose of reducing or discharging a liability incurred by a person for the purpose of the acquisition of shares includes its giving such assistance for the purpose of wholly or partly restoring his financial position to what it was before the acquisition took place.