



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

Private companies

156 Statutory declaration under s. 155

- (1) A statutory declaration made by a company's directors under section 155(6) shall contain such particulars of the financial assistance to be given, and of the business of the company of which they are directors, as may be prescribed, and shall identify the person to whom the assistance is to be given.
- (2) The declaration shall state that the directors have formed the opinion, as regards the company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts; and either—
 - (a) if it is intended to commence the winding up of the company within 12 months of that date, that the company will be able to pay its debts in full within 12 months of the commencement of the winding up, or
 - (b) in any other case, that the company will be able to pay its debts as they fall due during the year immediately following that date.
- (3) In forming their opinion for purposes of subsection (2), the directors shall take into account the same liabilities (including contingent and prospective liabilities) as would be relevant under section 517 (winding up by the court) to the question whether the company is unable to pay its debts.

Status: This is the original version (as it was originally enacted).

- (4) The directors' statutory declaration shall have annexed to it a report addressed to them by their company's auditors stating that—
 - (a) they have enquired into the state of affairs of the company, and
 - (b) they are not aware of anything to indicate that the opinion expressed by the directors in the declaration as to any of the matters mentioned in subsection (2) of this section is unreasonable in all the circumstances.
- (5) The statutory declaration and auditors' report shall be delivered to the registrar of companies—
 - (a) together with a copy of any special resolution passed by the company under section 155 and delivered to the registrar in compliance with section 380, or
 - (b) where no such resolution is required to be passed, within 15 days after the making of the declaration.
- (6) If a company fails to comply with subsection (5), 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.
- (7) A director of a company who makes a statutory declaration under section 155 without having reasonable grounds for the opinion expressed in it is liable to imprisonment or a fine, or both.