



# Companies Act 2006

## 2006 CHAPTER 46

### PART 18

#### ACQUISITION BY LIMITED COMPANY OF ITS OWN SHARES

### CHAPTER 7

#### SUPPLEMENTARY PROVISIONS

#### **733 The capital redemption reserve**

- (1) In the following circumstances a company must transfer amounts to a reserve, called the “capital redemption reserve”.
- (2) Where under this Part shares of a limited company are redeemed or purchased wholly out of the company's profits, the amount by which the company's issued share capital is diminished in accordance with—
  - (a) section 688(b) (on the cancellation of shares redeemed), or
  - (b) section 706(b)(ii) (on the cancellation of shares purchased),must be transferred to the capital redemption reserve.
- (3) If—
  - (a) the shares are redeemed or purchased wholly or partly out of the proceeds of a fresh issue, and
  - (b) the aggregate amount of the proceeds is less than the aggregate nominal value of the shares redeemed or purchased,the amount of the difference must be transferred to the capital redemption reserve.

This does not apply in the case of a private company if, in addition to the proceeds of the fresh issue, the company applies a payment out of capital under Chapter 5 [<sup>F1</sup> or under section 692(1ZA)] in making the redemption or purchase.

*Status: Point in time view as at 06/04/2015.*

*Changes to legislation: Companies Act 2006, Chapter 7 is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) The amount by which a company's share capital is diminished in accordance with section 729(4) (on the cancellation of shares held as treasury shares) must be transferred to the capital redemption reserve.
- (5) The company may use the capital redemption reserve to pay up new shares to be allotted to members as fully paid bonus shares.
- (6) Subject to that, the provisions of the Companies Acts relating to the reduction of a company's share capital apply as if the capital redemption reserve were part of its paid up share capital.

#### Textual Amendments

- F1** Words in s. 733(3) inserted (6.4.2015) by [The Companies Act 2006 \(Amendment of Part 18\) Regulations 2015 \(S.I. 2015/532\)](#), regs. 1(2), 8

#### Commencement Information

- II** S. 733 wholly in force at 1.10.2009; s. 733 not in force at Royal Assent see s. 1300; s. 733(5)(6) in force for specified purposes at 1.10.2008 by [S.I. 2008/1886](#), [art. 2](#) (with [arts 6, 7](#)); s. 733 in force otherwise at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(1\)](#) (with [arts. 5, 7, 8](#), [Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

### 734 Accounting consequences of payment out of capital

- (1) This section applies where a payment out of capital is made in accordance with Chapter 5 (redemption or purchase of own shares by private company out of capital) [<sup>F2</sup>or section 692(1ZA)].

[<sup>F3</sup>(1A) In relation to a payment under section 692(1ZA) references to the permissible capital payment are to the purchase price of the shares or (if less) the part of it met out of the payment under section 692(1ZA) and any proceeds of a fresh issue used to make the purchase.]

- (2) If the permissible capital payment is less than the nominal amount of the shares redeemed or purchased, the amount of the difference must be transferred to the company's capital redemption reserve.
- (3) If the permissible capital payment is greater than the nominal amount of the shares redeemed or purchased—
  - (a) the amount of any capital redemption reserve, share premium account or fully paid share capital of the company, and
  - (b) any amount representing unrealised profits of the company for the time being standing to the credit of any revaluation reserve maintained by the company, may be reduced by a sum not exceeding (or by sums not in total exceeding) the amount by which the permissible capital payment exceeds the nominal amount of the shares.
- (4) Where the proceeds of a fresh issue are applied by the company in making a redemption or purchase of its own shares in addition to a payment out of capital under [<sup>F4</sup>Chapter 5], the references in subsections (2) and (3) to the permissible capital payment are to be read as referring to the aggregate of that payment and those proceeds.

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### Textual Amendments

- F2** Words in s. 734(1) inserted (6.4.2015) by [The Companies Act 2006 \(Amendment of Part 18\) Regulations 2015 \(S.I. 2015/532\)](#), regs. 1(2), **9(2)**
- F3** S. 734(1A) inserted (6.4.2015) by [The Companies Act 2006 \(Amendment of Part 18\) Regulations 2015 \(S.I. 2015/532\)](#), regs. 1(2), **9(3)**
- F4** Words in s. 734(4) substituted (6.4.2015) by [The Companies Act 2006 \(Amendment of Part 18\) Regulations 2015 \(S.I. 2015/532\)](#), regs. 1(2), **9(4)**

## 735 Effect of company's failure to redeem or purchase

- (1) This section applies where a company—
- (a) issues shares on terms that they are or are liable to be redeemed, or
  - (b) agrees to purchase any of its shares.
- (2) The company is not liable in damages in respect of any failure on its part to redeem or purchase any of the shares.

This is without prejudice to any right of the holder of the shares other than his right to sue the company for damages in respect of its failure.

- (3) The court shall not grant an order for specific performance of the terms of redemption or purchase if the company shows that it is unable to meet the costs of redeeming or purchasing the shares in question out of distributable profits.
- (4) If the company is wound up and at the commencement of the winding up any of the shares have not been redeemed or purchased, the terms of redemption or purchase may be enforced against the company.

When shares are redeemed or purchased under this subsection, they are treated as cancelled.

- (5) Subsection (4) does not apply if—
- (a) the terms provided for the redemption or purchase to take place at a date later than that of the commencement of the winding up, or
  - (b) during the period—
    - (i) beginning with the date on which the redemption or purchase was to have taken place, and
    - (ii) ending with the commencement of the winding up,the company could not at any time have lawfully made a distribution equal in value to the price at which the shares were to have been redeemed or purchased.
- (6) There shall be paid in priority to any amount that the company is liable under subsection (4) to pay in respect of any shares—
- (a) all other debts and liabilities of the company (other than any due to members in their character as such), and
  - (b) if other shares carry rights (whether as to capital or as to income) that are preferred to the rights as to capital attaching to the first-mentioned shares, any amount due in satisfaction of those preferred rights.

Subject to that, any such amount shall be paid in priority to any amounts due to members in satisfaction of their rights (whether as to capital or income) as members.

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### **736 Meaning of “distributable profits”**

In this Part (except in Chapter 2 (financial assistance): see section 683) “distributable profits”, in relation to the making of any payment by a company, means profits out of which the company could lawfully make a distribution (within the meaning given by section 830) equal in value to the payment.

### **737 General power to make further provision by regulations**

- (1) The Secretary of State may by regulations modify the provisions of this Part.
- (2) The regulations may—
  - (a) amend or repeal any of the provisions of this Part, or
  - (b) make such other provision as appears to the Secretary of State appropriate in place of any of the provisions of this Part.
- (3) Regulations under this section may make consequential amendments or repeals in other provisions of this Act, or in other enactments.
- (4) Regulations under this section are subject to affirmative resolution procedure.

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#### **Commencement Information**

- I2** [S. 737](#) wholly in force at 1.10.2009; [s. 737](#) not in force at Royal Assent, see [s. 1300](#); [s. 737](#) in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); [s. 737](#) otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(1\)](#) (with [arts. 5, 7, 8](#), [Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

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