



Companies Act 1948

1948 CHAPTER 38 11 and 12 Geo 6

PART IV

MANAGEMENT AND ADMINISTRATION.

Arrangements and Reconstructions.

209 Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

- (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as “the transferor company”) to another company, whether a company within the meaning of this Act or not (in this section referred to as “the transferee company”), has, within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine tenths in value of the shares whose transfer is involved (other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary), the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and when such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee company :

Provided that where shares in the transferor company of the same class or classes as the shares whose transfer is involved are already held as aforesaid to a value greater than one tenth of the aggregate of their value and that of the shares (other than those already held as aforesaid) whose transfer is involved, the foregoing provisions of this subsection shall not apply unless—

- (a) the transferee company offers the same terms to all holders of the shares (other than those already held as aforesaid) whose transfer is involved, or, where those shares include shares of different classes, of each class of them; and

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- (b) the holders who approve the scheme or contract, besides holding not less than nine tenths in value of the shares (other than those already held as aforesaid) whose transfer is involved, are not less than three fourths in number of the holders of those shares.
- (2) Where, in pursuance of any such scheme or contract as aforesaid, shares in a company are transferred to another company or its nominee, and those shares together with any other shares in the first-mentioned company held by, or by a nominee for, the transferee company or its subsidiary at the date of the transfer comprise or include nine tenths in value of the shares in the first-mentioned company or of any class of those shares, then—
- (a) the transferee company shall within one month from the date of the transfer (unless on a previous transfer in pursuance of the scheme or contract it has already complied with this requirement) give notice of that fact in the prescribed manner to the holders of the remaining shares or of the remaining shares of that class, as the case may be, who have not assented to the scheme or contract; and
- (b) any such holder may within three months from the giving of the notice to him require the transferee company to acquire the shares in question;

and where a shareholder gives notice under paragraph (b) of this subsection with respect to any shares, the transferee company shall be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to it, or on such other terms as may be agreed or as the court on the application of either the transferee company or the shareholder thinks fit to order.

- (3) Where a notice has been given by the transferee company under subsection (1) of this section and the court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferee company, and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares:

Provided that an instrument of transfer shall not be required for any share for which a share warrant is for the time being outstanding.

- (4) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.
- (5) In this section the expression “dissenting shareholder” includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.
- (6) In relation to an offer made by the transferee company to shareholders of the transferor company before the commencement of this Act, this section shall have effect—

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- (a) with the substitution, in subsection (1), for the words “the shares whose transfer is involved (other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary)”, of the words “the shares affected” and with the omission of the proviso to that subsection;
- (b) with the omission of subsection (2); and
- (c) with the omission, in subsection (3), of the words “together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferee company” and of the proviso to that subsection.