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STATUTORY INSTRUMENTS

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**1992 No. 225**

**The Uncertificated Securities Regulations 1992**

**PART VI**

**UNCERTIFICATED SECURITIES**

**CHAPTER I**

**Uncertificated Securities: General Provisions**

**Exclusion of enactments and rule of law**

**48.**—(1) A company shall not be under any obligation (if it otherwise would be) to issue any certificate evidencing the title to a unit of an uncertificated security of the company and in particular section 185 of the 1985 Act shall not apply to a company to the extent that it has uncertificated shares.

(2) Subject to paragraph 4 of Schedule 5 to these Regulations, any certificate issued by or on behalf of a company purportedly evidencing the title to a unit of an uncertificated security of the company shall not be (if it would otherwise be) *prima facie* evidence, and in Scotland sufficient evidence unless the contrary is shown, of the title to the unit and in particular section 186 of the 1985 Act shall not have effect in relation to any certificate issued with respect to uncertificated shares.

(3) No rule of law to the effect that, in a contract to transfer the title to units of a security, it is a term that the transferor shall execute and deliver to the transferee a proper instrument of transfer and a certificate evidencing the rights and interests liable to be conveyed (or obtain a certification of the transfer from any person) shall apply with respect to units of an uncertificated security.

**Implied terms in contracts for the transfer of uncertificated securities**

**49.**—(1) It is an implied term in a contract for the transfer of a unit of an uncertificated security that:

- (a) any authority, instructions or notifications of transactions necessary for the effecting of the transfer will be given by the transferor or by persons acting on behalf of the transferor; and
- (b) the controller to hold any entitlements concerned for the transferee is to be a company controller.

(2) A term implied into a contract by this regulation may be excluded or varied expressly or, where the contract makes alternative provision, impliedly.

For this purpose a contract may make alternative provision expressly or by implication.

**Trustees holding units of an uncertificated security**

**50.**—(1) A provision in any instrument or enactment which authorises:

- (a) the holding and investment of trust property in units of a security; or
- (b) the variation of investments in units of a security comprising trust property,

shall be deemed to authorise investment of trust property in units of any uncertificated security which, if the security had been in certificated form, would have been an authorised investment for the purposes of the provision or rule of law.

(2) Paragraph (1) shall be without prejudice to:

- (a) any other condition which is imposed by the instrument, enactment or rule of law relating to the investment of trust property in units of a security; and
- (b) any express provision of any instrument which prohibits the investment of trust property in units of an uncertificated security.

(3) Any provision of any instrument or enactment or any rule of law relating to the employment of agents by trustees shall not be taken as precluding the holding of, or investment of trust property in, units of an uncertificated security by virtue only of the reason that the power to transfer the units is under these Regulations held for the trustees by a controller and a trustee shall not be answerable for the insufficiency or deficiency of any securities or any income therefrom, or for any other loss due to the acts, neglects or defaults of the controller unless the same happens through the trustee's own wilful default or neglect.

(4) For the purpose of this regulation "trustee" (in England and Wales and Northern Ireland) shall include a personal representative and any other person acting in a fiduciary capacity and (in Scotland) any person who is a trustee for the purposes of the Trusts (Scotland) Act 1921(1) and "trust property" shall include all property held by persons acting in such capacities.

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(1) 1921 c. 58.