
STATUTORY INSTRUMENTS

1992 No. 225

The Uncertificated Securities Regulations 1992

PART VIII

**FURTHER PROVISIONS WITH RESPECT TO THE
PROCEDURES, RECORDS AND REGISTERS**

THE PROCEDURES

No notice of trusts

67.—(1) No notice of any trusts or other interest in a unit of an uncertificated security is to be receivable by the Operator. Nor is any such notice to be receivable by a controller, unless it is given by the account holder for whom the controller holds the entitlement to the unit concerned. Nothing in this paragraph shall be construed as preventing, in the case of a company incorporated in Scotland, the Operator giving notice of a trust to a company on behalf of a controller.

(2) Section 360 of the 1985 Act shall (in the case of a company registered in England and Wales or Northern Ireland) have effect with respect to the appropriate register for an uncertificated security and the registrar of that register, whether or not the uncertificated security concerned is shares. However where the title to an uncertificated security is itself equitable title (for example in the case of debenture stock), section 360 as so applied shall have effect with respect to any interest in that equitable title.

Priority between communications

68.—(1) Subject to the next paragraph, where a controller receives two or more conflicting communications it is the duty of the controller to:

- (a) act on the communications in the order of their receipt; or
- (b) (in the event that they are received simultaneously or their time of receipt cannot be determined) to reject them.

Communications shall not be regarded as conflicting for this purpose solely because one communication amends or countermands the other.

(2) Paragraph (1) shall apply unless it is not reasonably practicable, as a result of the manner in which communications received by the controller are processed, for the controller to comply with that paragraph.

Where paragraph (1) does not apply:

- (a) communications shall be regarded as having been properly acted upon by the controller notwithstanding that they have not been processed in order of their receipt or issue provided that they have been acted upon in the normal course of processing; and
- (b) the controller shall not be in breach of any duty of his or its under these Regulations by failing to act upon the communications in the order in which they have been received or made.

Powers of attorney (England and Wales and Northern Ireland)

69.—(1) This regulation, which has effect for the law of England and Wales and Northern Ireland, applies where the terms of an offer for all or any units of an uncertificated security provide that a person accepting the offer creates an irrevocable power of attorney (in the terms set out therein) in favour of the offeror or a person nominated by the offeror.

(2) Where this regulation applies, an acceptance communicated by a commercial controller to which regulation 13(5) applies shall have the effect, without more, of creating an irrevocable power of attorney given by the person accepting the offer to which section 4 of the Powers of Attorney Act 1971⁽¹⁾ applies in favour of the offeror or a person nominated by the offeror in the terms set out in the terms of the offer, unless the offeror or the person nominated by him had, at the time of its receipt, actual notice that the purported acceptance was unauthorised. This paragraph is without prejudice to the liability of a controller for the making of the communication without authority, but it applies whether or not the person accepting the offer is identified in the communication, provided that the identity of that person is, within such period as the recipient of the communication may reasonably require, notified to the recipient by the controller concerned.

(3) A declaration in writing by the controller stating the terms of a power of attorney and that it has been granted by virtue of this regulation and stating the name and address of the grantor shall be prima facie evidence, and in Scotland sufficient evidence unless the contrary is shown, of the grant, and any requirement in any enactment or instrument to produce a copy of the power of attorney, or a copy thereof certified in a particular manner, may be satisfied by the production of the declaration or of a copy thereof certified in that manner.

(1) 1971 c. 27.