

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further implement the Council Directive [77/91/EEC](#) (OJNo. L26, 31.1.77, p. 1) as amended by [92/101/EEC](#) (OJ No. L347, 28.11.92, p.64) on co-ordination of safeguards which, for the protection of members and others, are required by member states of companies in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent. The Regulations amend the Companies Act 1985 (c. 6) (“the 1985 Act”) to permit certain companies to hold shares in treasury following a purchase of own shares as an alternative to cancelling such shares on purchase.

2. Regulation 2 defines “qualifying shares” which are the only shares that may be held as treasury shares.

3. Regulation 3 inserts new sections 162A, 162B, 162C, 162D, 162E, 162F and 162G in the 1985 Act which set out the principal provisions relating to treasury shares. Section 162A provides that where qualifying shares are purchased out of distributable profits they may be held in treasury; and that the holding of treasury shares by nominees is not permitted. Section 162B provides that the maximum holding of treasury shares is 10% of the nominal value of any class of share. If that limit is exceeded, the company must dispose of or cancel the excess shares within 12 months. Section 162C provides that the rights attached to treasury shares, including voting rights and rights to receive dividends, are suspended and that the purported exercise of such rights is void. Section 162D provides that treasury shares may only be sold for cash; or transferred for the purposes of, or pursuant to, an employees' share scheme; or cancelled. Section 162E provides that if a company's treasury shares cease to be qualifying shares they must be cancelled forthwith. Section 162F sets out the rules that apply in respect of the proceeds of a sale of treasury shares. Section 162G provides that if a company contravenes any provision of sections 162A to 162F every officer of it who is in default is liable to a fine.

4. Regulation 4 provides that the Schedule to the Regulations has effect. The Schedule sets out consequential amendments to the 1985 Act. Paragraphs 4, 5 and 6 amend sections 89, 94 and 95 respectively and provide that the pre-emption rights that apply to the allotment of new shares also apply to the sale of treasury shares but may also be similarly disapplied with the agreement of shareholders. Paragraphs 12 and 13 amend section 169 and insert new section 169A respectively and set out the rules relating to the disclosure to the Registrar of Companies of purchases of treasury shares and their subsequent sale, transfer or cancellation.

5. A Regulatory Impact Assessment of these Regulations is available from the Department of Trade and Industry, Company Law and Investigations Directorate, Room 507, 1 Victoria Street, London SW1H 0ET. A copy has also been placed in the libraries of both Houses of Parliament. Transposition Notes setting out how these Regulations further implement Council Directive [77/91/EEC](#) have been placed in the libraries of both Houses of Parliament and are also available from the above address.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Companies (Acquisition of Own Shares)(Treasury Shares) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. para. 1 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 2 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 3 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 4 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 5 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 6 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 7 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 8 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 9 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 10 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 11 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 12 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 13 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 14 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 15 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 16 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 17 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 18 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 19 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 20 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 21 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 22 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 23 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 24 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 25 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 26 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 27 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 28 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 29 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 30 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 31 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 32 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 33 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- Sch. para. 34 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- reg. 1 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- reg. 3 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)
- reg. 4 coming into force by [S.I. 2003/1116 reg. 1\(1\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Schedule para 12 rev in pt by [S.I. 2003/3031 reg 3\(1\)](#)