



# Finance Act 1986

## 1986 CHAPTER 41

### PART III

#### STAMP DUTY

##### *Reconstructions and acquisitions*

<sup>F1</sup>73 .....

#### Textual Amendments

<sup>F1</sup> S. 73 repealed by [Finance Act 1986 \(c. 41, SIF 114\)](#), s. 114, [Sch. 23 Pt. IX\(1\)](#) Note 1

#### 74 Reconstructions etc: repeals.

- (1) The following provisions shall cease to have effect—
  - (a) section 55 of the <sup>M1</sup>Finance Act 1927 and section 4 of the <sup>M2</sup>Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations);
  - (b) paragraph 12(1) and (1A) of Schedule 18 to the <sup>M3</sup>Finance Act 1980 (demergers);
  - (c) sections 78, 79 and 80 of the Finance Act 1985 (takeovers and winding-up).
- (2) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words “sub-paragraph (2) above” there shall be substituted the words “this paragraph”.
- (3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

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#### Marginal Citations

- M1** 1927 c. 10.  
**M2** 1928 c. 9 (N.I.).  
**M3** 1980 c. 48.

## 75 Acquisitions: reliefs.

- (1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company) in pursuance of a scheme for the reconstruction of the target company.
- (2) If the first and second conditions (as defined below) are fulfilled, stamp duty under [F<sup>2</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)] shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer of the undertaking or part.
- (3) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (4) The first condition is F<sup>3</sup>... that the consideration for the acquisition—
  - (a) consists of or includes the issue of [F<sup>4</sup>non-redeemable] shares in the acquiring company to all the shareholders of the target company;
  - (b) includes nothing else (if anything) but the assumption or discharge by the acquiring company of liabilities of the target company.

[F<sup>5</sup>In paragraph (a) above, “non-redeemable shares” means shares which are not redeemable shares.]

- (5) The second condition is that—
  - (a) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax or capital gains tax,
  - (b) after the acquisition has been made, each shareholder of each of the companies is a shareholder of the other, and
  - (c) after the acquisition has been made, the proportion of shares of one of the companies held by any shareholder is the same [F<sup>6</sup>, or as nearly as may be the same,] as the proportion of shares of the other company held by that shareholder.

[F<sup>7</sup>(5A) If immediately before the acquisition the target company or the acquiring company holds any of its own shares, the shares are to be treated for the purposes of subsections (4) and (5) as having been cancelled before the acquisition (and, accordingly, the company is to be treated as if it were not a shareholder of itself).]

- (6) This section applies to any instrument which is executed after 24th March 1986 unless it is executed in pursuance of an unconditional contract made on or before 18th March 1986.

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(7) This section shall be deemed to have come into force on 25th March 1986.

#### Textual Amendments

- F2** Words in s. 75(2) substituted (27.7.1999 with effect as mentioned in s. 112(6) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), ss. 112(4)(6), **Sch. 14 para. 14** (with s. 122)
- F3** Words in s. 75(4) repealed (with effect in accordance with s. 169(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 169(2)(a), **Sch. 26 Pt. 7(5)**
- F4** Words in s. 75(4)(a) inserted (28.7.2000 with effect as mentioned in s. 127(5) of the amending Act) by [2000 c. 17](#), s. 127(2)
- F5** Words in s. 75(4) added (28.7.2000 with effect as mentioned in s. 127(5) of the amending Act) by [2000 c. 17](#), s. 127(3)
- F6** Words in s. 75(5)(c) inserted (with effect in accordance with s. 169(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 169(2)(b)
- F7** S. 75(5A) inserted (with effect in accordance with s. 74(4) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 74(1)

#### Modifications etc. (not altering text)

- C1** S. 75 excluded (28.4.1997) by [S.I. 1997/1156](#), reg. 12

### <sup>F8</sup>76 **Acquisitions: further provisions about reliefs.**

#### Textual Amendments

- F8** S. 76 repealed (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 39 para. 5(1)(a)** (with Sch. 39 paras. 11-13)

#### Modifications etc. (not altering text)

- C2** S. 76 excluded (28.4.1997) by [S.I. 1997/1156](#), reg. 12  
S. 76 restricted (retrospective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), s. 113(1)(a)(9)

### 77 **Acquisition of target company's share capital**

- (1) Stamp duty under [<sup>F9</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)] shall not be chargeable on an instrument transferring shares in one company (the target company) to another company (the acquiring company) if the conditions mentioned in subsection (3) below are fulfilled.
- (2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.
- (3) The conditions are that —
  - <sup>F10</sup>(a) .....
  - (b) the transfer forms part of an arrangement by which the acquiring company acquires the whole of the issued share capital of the target company,

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- (c) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, stamp duty reserve tax, income tax, corporation tax or capital gains tax,
- (d) the consideration for the acquisition consists only of the issue of shares in the acquiring company to the shareholders of the target company,
- (e) after the acquisition has been made, each person who immediately before it was made was a shareholder of the target company is a shareholder of the acquiring company,
- (f) after the acquisition has been made, the shares in the acquiring company are of the same classes as were the shares in the target company immediately before the acquisition was made,
- (g) after the acquisition has been made, the number of shares of any particular class in the acquiring company bears to all the shares in that company the same proportion [<sup>F11</sup>, or as nearly as may be the same proportion,] as the number of shares of that class in the target company bore to all the shares in that company immediately before the acquisition was made, <sup>F12</sup> ...
- (h) after the acquisition has been made, the proportion of shares of any particular class in the acquiring company held by any particular shareholder is the same [<sup>F13</sup>, or as nearly as may be the same,] as the proportion of shares of that class in the target company held by him immediately before the acquisition was made [<sup>F14</sup>, and
- (i) at the time the instrument mentioned in subsection (1) is executed there are no disqualifying arrangements, within the meaning given by section 77A, in existence.]

[<sup>F15</sup>(3A) If immediately before the acquisition the target company or the acquiring company holds any of its own shares, the shares are to be treated for the purposes of subsection [<sup>F16</sup>(3)(b) to (h)] as having been cancelled before the acquisition (and, accordingly, the company is to be treated as if it were not a shareholder of itself).]

- (4) In this section [<sup>F17</sup>and section 77A] references to shares and to share capital include references to stock.
- (5) This section applies to any instrument executed on or after 1st August 1986.

#### Textual Amendments

- F9** Words in s. 77(1) substituted (with effect as mentioned in s. 112(6) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), ss. 112(4), [Sch. 14 para. 16](#) (with s. 122)
- F10** S. 77(3)(a) repealed (with effect in accordance with s. 169(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 169(4)(a), [Sch. 26 Pt. 7\(5\)](#)
- F11** Words in s. 77(3)(g) inserted (with effect in accordance with s. 169(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 169\(4\)\(b\)](#)
- F12** Word in s. 77(3)(g) omitted (with effect in accordance with s. 137(6) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 137\(2\)](#)
- F13** Words in s. 77(3)(h) inserted (with effect in accordance with s. 169(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 169\(4\)\(c\)](#)
- F14** S. 77(3)(i) and word inserted (with effect in accordance with s. 137(6) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 137\(2\)](#)
- F15** S. 77(3A) inserted (with effect in accordance with s. 74(4) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 74\(2\)](#)

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- F16** Words in s. 77(3A) substituted (with effect in accordance with s. 137(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 137\(3\)](#)
- F17** Words in s. 77(4) inserted (with effect in accordance with s. 137(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 137\(4\)](#)

**Modifications etc. (not altering text)**

- C3** S. 77 excluded (28.4.1997) by [S.I. 1997/1156, reg. 12](#)

**[<sup>F18</sup>77A Disqualifying arrangements**

- (1) This section applies for the purposes of section 77(3)(i).
- (2) Arrangements are “disqualifying arrangements” if it is reasonable to assume that the purpose, or one of the purposes, of the arrangements is to secure that—
- (a) a particular person obtains control of the acquiring company, or
  - (b) particular persons together obtain control of that company.

[<sup>F19</sup>but a person who has held at least 25% of the issued share capital of the target company at all times during the relevant period is not within paragraph (a) or (b).]

[ For the purposes of subsection (2) the “relevant period” is the period of 3 years ending <sup>F20</sup>(2A) immediately before the time at which the shares in the acquiring company are issued (or first issued) as consideration for the acquisition.]

- (3) <sup>F21</sup>... neither of the following are disqualifying arrangements—
- (a) the arrangements for the issue of shares in the acquiring company which is the consideration for the acquisition mentioned in section 77(3);
  - (b) any relevant merger arrangements.
- (4) In subsection (3) “relevant merger arrangements” means arrangements for the issue of shares in the acquiring company to the shareholders of a company (“company B”) other than the target company (“company A”) in a case where—
- (a) that issue of shares to the shareholders of company B would be the only consideration for the acquisition by the acquiring company of the whole of the issued share capital of company B,
  - (b) the conditions in section 77(3)(c) and (e) would be met in relation to that acquisition (if that acquisition were made in accordance with the arrangements), and
  - (c) the conditions in paragraphs (f) to (h) of section 77(3) would be met in relation to that acquisition if—
    - (i) that acquisition were made in accordance with the arrangements, and
    - (ii) the shares in the acquiring company issued as consideration for the acquisition of the share capital of company A were ignored for the purposes of those paragraphs;

and in section 77(3)(e) to (h) and (3A) as they apply by virtue of this subsection, references to the target company are to be read as references to company B.

- (5) Where—
- (a) arrangements within any paragraph of subsection (3) are part of a wider scheme or arrangement, and
  - (b) that scheme or arrangement includes other arrangements which—
    - (i) fall within subsection (2), and

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(ii) do not fall within any paragraph of subsection (3),  
those other arrangements are disqualifying arrangements despite anything in subsection (3).

[ The Treasury may by regulations amend subsection (2) or (2A) so as to alter the <sup>F22</sup>(5A) percentage or length of the period for the time being specified there.

(5B) The power to make regulations under subsection (5A) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.]

(6) In this section—

“the acquiring company” has the meaning given by section 77(1);  
“arrangements” includes any agreement, understanding or scheme (whether or not legally enforceable);  
“control” is to be read in accordance with section 1124 of the Corporation Tax Act 2010;  
“the target company” has the meaning given by section 77(1).]

#### Textual Amendments

- F18** S. 77A inserted (with effect in accordance with s. 137(6) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 137\(5\)](#)
- F19** Words in s. 77A(2) inserted (with effect in accordance with s. 79(6) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 79\(2\)](#)
- F20** S. 77A(2A) inserted (with effect in accordance with s. 79(6) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 79\(3\)](#)
- F21** Word in s. 77A(3) omitted (with effect in accordance with s. 79(6) of the amending Act) by virtue of [Finance Act 2020 \(c. 14\), s. 79\(4\)](#)
- F22** S. 77A(5A)(5B) inserted (with effect in accordance with s. 79(6) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 79\(5\)](#)

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