

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 21: Certification and Transfer of Securities

Chapter 2: Evidencing and Transfer of Title to Securities Without Written Instrument

Section 786: Provision enabling or requiring arrangements to be adopted

1101. This section provides that regulations under this Chapter may require, as well as permit, the paper-free holding and transfer of securities. The effect of *subsections (1) and (2)* is that regulations made under section 207 may:
- enable members of companies, or of designated classes of company, by ordinary resolution, to adopt a new form of paperless holding and transfer of shares and abandon paper-based forms of holding and transfer in relation to all existing and new securities of that company, or to specified types of securities; or
 - make the adoption of a form of paperless transfer and the abandonment of paper-based forms of transfer mandatory for all securities, or specified types of securities, issued by companies generally or by designated classes of company.
1102. Regulations do not need to make it obligatory both to hold and to transfer securities in a paper-free way: the new arrangements could relate just to holding or just to transfer.
1103. *Subsection (3)* is designed to protect the right of individual investors to continue to hold shares in their own names rather than through nominees. It ensures that the new arrangements prescribed in the regulations will not mean that:
- people who would have been entitled to have their names entered in the company's register of members will lose that entitlement; or
 - people who are entitled to exercise rights in respect of securities will lose that right.
1104. *Subsection (4)* provides that the regulations will be able to:
- prohibit the issue of share certificates or certificates for other types of security. Holders of securities to which any such prohibition applies will lose the option of continuing to hold certificates and transfer their shares by paper-based methods;
 - ensure that such holders of securities are sent periodic statements of their holdings;
 - make provision about the evidential value of certificates or statements.