



# Companies (Beneficial Interests) Act 1983

## 1983 CHAPTER 50

An Act to provide for disregarding certain interests and rights in determining for the purposes of provisions of the Companies Act 1948 and the Companies Act 1980 whether a company is beneficially interested under a trust or has a beneficial interest in shares. [26th July 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 Preliminary

This Act shall have effect, and be deemed always to have had effect, for the interpretation of references to a beneficial interest under a trust, or to a beneficial interest in shares, in the following provisions of the Companies Act 1948 and the Companies Act 1980—

- (a) section 27(2) of the Act of 1948 (by virtue of which a subsidiary may hold shares in its holding company if the subsidiary is concerned as trustee and neither the holding company nor any of its subsidiaries is beneficially interested under the trust);
- (b) paragraph 60(2) of Schedule 8 and paragraph 15(3) of Schedule 8A to that Act (by virtue of which the accounts of a holding company need not give particulars of shares or debentures held by a subsidiary in the circumstances described in the said section 27(2));
- (c) section 36(6)(a) of the Act of 1980 (by virtue of which the provisions of that section relating to the acquisition of shares by nominees do not apply where the company has no beneficial interest in the shares); and
- (d) section 37(1)(b), (c) and (d) of that Act (which makes provision for the treatment of shares in a company in which it has a beneficial interest and which are acquired in the circumstances there mentioned).

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## **2 Residual interests under pension and employees' share schemes**

- (1) Where shares in a company are held on trust for the purposes of a pension scheme or an employees' share scheme there shall be disregarded any residual interest which has not vested in possession, being an interest of the company or, as respects the provisions mentioned in section 1(a) and (b) above, of any subsidiary of the company.
- (2) In this section "a residual interest" means a right of the company or subsidiary in question ("the residual beneficiary") to receive any of the trust property in the event of—
  - (a) all the liabilities arising under the scheme having been satisfied or provided for; or
  - (b) the residual beneficiary ceasing to participate in the scheme; or
  - (c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.
- (3) In subsection (2) above references to a right include references to a right dependent on the exercise of a discretion vested by the scheme in the trustee or any other person, and references to liabilities arising under a scheme include references to liabilities that have resulted or may result from the exercise of any such discretion.
- (4) The Schedule to this Act shall have effect as respects the operation of section 27 of the Act of 1948 and sections 36 and 37 of the Act of 1980 in cases where a residual interest vests in possession.
- (5) For the purposes of this section a residual interest vests in possession—
  - (a) in a case within paragraph (a) of subsection (2) above, on the occurrence of the event there mentioned, whether or not the amount of the property receivable pursuant to the right referred to in that subsection is then ascertained; and
  - (b) in a case within paragraph (b) or (c) of that subsection, when the residual beneficiary becomes entitled to require the trustee to transfer to that beneficiary any of the property receivable pursuant to that right.
- (6) As respects the provisions mentioned in section 1(b) above subsection (1) above shall have effect as if references to shares included references to debentures.

## **3 Employer's charges and other rights of recovery**

- (1) Where shares in a company are held on trust there shall be disregarded—
  - (a) if the trust is for the purposes of a pension scheme, any such rights as are mentioned in subsection (2) below; and
  - (b) if the trust is for the purposes of an employees' share scheme, any such rights as are mentioned in paragraph (a) of that subsection,being rights of the company or, as respects the provisions mentioned in section 1(a) or (b) above, of any subsidiary of the company.
- (2) The rights referred to in subsection (1) above are—
  - (a) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member; and
  - (b) any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, any amount that can be recovered or retained by virtue of section 47

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of the Social Security Pensions Act 1975 (deduction of premium from refund of contributions) or otherwise as reimbursement or partial reimbursement for any state scheme premium paid in connection with the scheme under Part III of that Act.

- (3) As respects the provisions mentioned in section 1(b) above subsection (1) above shall have effect as if references to shares included references to debentures.

#### **4 Trustee's right to expenses, remuneration, indemnity etc.**

- (1) Where a company is a trustee (whether as personal representative or otherwise) there shall be disregarded any rights which the company has in its capacity as trustee including, in particular, any right to recover its expenses or be remunerated out of the trust property and any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the company in the performance of its duties as trustee.
- (2) As respects the provisions mentioned in section 1(a) and (b) above, subsection (1) above shall have effect as if references to a company included references to any body corporate which is a subsidiary of a company.
- (3) The following provisions of the Act of 1980 (which are superseded by subsection (1) above) are hereby repealed—
- (a) in section 36(6)(a) the words in brackets;
  - (b) in section 37(1) the words following paragraph (d).

#### **5 Interpretation and supplementary provisions**

- (1) In this Act "the Act of 1948" means the Companies Act 1948 and "the Act of 1980" means the Companies Act 1980.
- (2) In this Act "pension scheme" means any scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees and "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.
- (3) In subsection (2) above and in section 3(2)(a) above "employer" and "employee" shall be construed as if a director of a company were employed by it.
- (4) In this Act "employees' share scheme" has the meaning given in section 87(1) of the Act of 1980.
- (5) Any other expression used in this Act which is also used in the Act of 1948 has the same meaning as in that Act.
- (6) Part VII of the Act of 1948 (which relates to companies formed or registered under the former Acts there mentioned) and section 394 of that Act (which relates to companies not formed under that Act but registered under it) shall apply for the purposes of the application of the provisions of this Act to such companies as aforesaid as they apply for the purposes of the application to them of the provisions of that Act.

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## **6 Corresponding provisions for Northern Ireland**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House.

## **7 Short title, citation and extent**

- (1) This Act may be cited as the Companies (Beneficial Interests) Act 1983.
- (2) This Act and the Companies Acts 1948 to 1981 may be cited together as the Companies Acts 1948 to 1983.
- (3) Except for section 6 above, this Act does not extend to Northern Ireland.

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## SCHEDULE

Section 2(4).

### VESTING OF RESIDUAL INTERESTS

#### *Section 27 of Act of 1948*

- 1 Where by virtue of the vesting in possession of a residual interest a subsidiary ceases to be exempt from section 27 of the Act of 1948, that section shall not prevent the subsidiary from continuing to be a member of its holding company but, subject to subsection (2) of that section, the subsidiary shall have no right from the date of vesting to vote at meetings of the holding company or of any class of its members.

#### *Section 36 of Act of 1980*

- 2 Where by virtue of section 2 of this Act any shares are exempt from section 36 of the Act of 1980 at the time when they are issued or acquired but the residual interest in question vests in possession before they are disposed of or fully paid up, that section shall apply to the shares as if they had been issued or acquired on the date on which that interest vests in possession.

#### *Section 37 of Act of 1980*

- 3 Where by virtue of section 2 of this Act any shares are exempt from section 37 of the Act of 1980 at the time when they are acquired but the residual interest in question vests in possession before they are disposed of, that section shall apply to the shares as if they had been acquired on the date on which that interest vests in possession.

#### *Vesting before the passing of this Act*

- 4 The foregoing provisions of this Schedule apply whether the date on which the residual interest vests in possession is before or after the passing of this Act but where that date is before the passing of this Act those provisions shall have effect as if the vesting had occurred on the date on which this Act was passed.