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SCHEDULES.

SEVENTH SCHEDULE

Sections 129, 410.

CONDITIONS AS TO INTERESTS IN SHARES AND DEBENTURES OF EXEMPT PRIVATE COMPANY.

Basic Conditions.

- 1 The basic conditions as to the shares or debentures of the company whose exemption is in question are—
- (a) that no body corporate is the holder of any of the shares or debentures; and
 - (b) that no person other than the holder has any interest in any of the shares or debentures;
- but these conditions are subject to the exceptions provided for by the following paragraphs of this Schedule.

Exceptions for normal Dealings of a business Nature.

- 2 (1) The rules contained in the following sub-paragraphs of this paragraph shall apply for the purposes both of the basic conditions and of the exceptions from those conditions.
- (2) Where any share or debenture or any interest in any share or debenture is subject to a charge in favour of a banking or finance company by way of security for the purposes of a transaction entered into in the ordinary course of its business as such—
- (a) any interest under the charge, whether of the banking or finance company or a nominee for it, shall be disregarded ; and
 - (b) if the banking or finance company or its nominee is the holder of the share or debenture, the person entitled to the equity of redemption shall be treated as the holder, whether he has a present right to redeem or not.
- (3) Any interest under a contract for the transfer of any share or debenture or of any interest in any share or debenture shall, until execution of an instrument of transfer by the parties, be disregarded unless execution thereof is unreasonably delayed.
- (4) Subject to sub-paragraph (2) of this paragraph, on execution of an instrument of transfer of a share or debenture, the transferee and not the transferor shall be treated as the holder, notwithstanding that the transfer requires registration with the company, unless registration is refused.
- (5) Any interest of the company itself in any of its shares or debentures, and any lien or charge arising by operation of law and affecting any of the shares or debentures shall be disregarded.

Exceptions for Cases of Death and for family Settlements.

- 3 (1) The basic conditions shall be subject to exceptions for—

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- (a) any shares or debentures forming part of the estate of a deceased holder thereof, so long as administration of his estate has not been completed ; and
 - (b) any shares or debentures held by trustees on the trusts of a will or family settlement disposing of the shares or debentures, so long as no body corporate has for, the time being any immediate interest under the said trusts other than—
 - (i) a body corporate established for charitable purposes only and having no right to exercise or control the exercise of any part of the voting power at any general meeting of the company ;
 - (ii) a body corporate which is a trustee of the said trusts and has such an interest only by way of remuneration for acting as trustee thereof.
- (2) For the purposes of this paragraph—
- (a) shares or debentures held by trustees on trusts arising on an intestacy shall, if the shares or debentures or an interest therein formed part of the intestate's estate at the time of his death, be treated as if the trusts arose under a will disposing of the shares or debentures ;
 - (b) the expression “family settlement ” means a settlement made either—
 - (i) in consideration or contemplation of an intended marriage of the settlor or any of the settlor's issue or in pursuance of a contract entered into in consideration or contemplation of any such marriage ; or
 - (ii) otherwise in favour of any of the following persons, that is to say the settlor, his parents and grandparents, and any other individual who at the date of the settlement is a member of the company or, in the case of a settlement of debentures, a member or debenture holder of the company, and the wife or husband and issue, and the wife or husband of any of the issue, of the settlor, his parents, or any such other individual, and persons taking in the event of a failure of the issue or any class of the issue of any person taking under the settlement ;
 - (c) the expressions “parent ”, “grandparent ” and “issue ” shall be construed as if the stepchild, adopted child or illegitimate child of any person were that person's child ;
 - (d) any reference to a wife or husband shall include a former wife or husband and a reputed wife or husband ;
 - (e) the expression “will ” includes any testamentary disposition ;
 - (f) any reference to a will or family settlement disposing of any shares or debentures shall include a will or family settlement disposing of an interest under another will or family settlement disposing of the shares or debentures.

Exception for Cases of Disability.

- 4 Where the person entitled to any share or debenture or any interest in any share or debenture is of unsound mind or otherwise under any disability, and by reason thereof the share, debenture or interest is vested in an administrator, curator or other person on behalf of the person entitled thereto, then in relation to the share, debenture or interest the person in whom it is so vested and the person entitled thereto shall be treated for the purposes of this Schedule as if they were the same person.

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Exception for Trusts for Employees.

- 5 The basic conditions shall be subject to an exception for any shares or debentures held by trustees for the purposes of a scheme maintained for the benefit of employees of the company, including any director holding a salaried employment or office in the company.

Exception for Shares held by Exempt Private Companies.

- 6 (1) The first of the basic conditions shall be subject to an exception for shares held by another private company which is itself an exempt private company :

Provided that this exception shall not apply, if, taking all the following companies together, that is to say—

- (a) the company whose exemption is in question (hereafter in this Schedule referred to as “the relevant company ”) ;
- (b) any company holding shares to which this exception has to be applied in determining the relevant company's right to be treated as an exempt private company ; and
- (c) any further company taken into account for the purposes of this proviso in determining the right to be so treated of any company holding any such shares as aforesaid ;

the total number of persons holding shares in those companies is more than fifty, joint shareholders being treated as a single person and the companies themselves and (subject to sub-paragraph (4) of this paragraph) their employees and former employees being disregarded.

- (2) Where the relevant company and another company hold shares in each other, the other company shall be treated for the purposes of the foregoing sub-paragraph as an exempt private company if—

- (a) in determining its right to be so treated the exception in that sub-paragraph would apply to the shares in it held by the relevant company, on the assumption that the relevant company was an exempt private company ; and
- (b) in all other respects the other company is entitled to be so treated ;

and where another company's right to be so treated depends on the application to any shares in it of that sub-paragraph, and the application thereof to those shares depends indirectly on the relevant company's right to be so treated, this sub-paragraph shall apply as if those shares were held by the relevant company.

- (3) Where by virtue of this paragraph any shares are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for any interest in those shares which any person has by virtue of debentures of the company holding those shares, or as trustee of a deed for securing an issue of debentures of that company.

- (4) In the proviso to sub-paragraph (1) of this paragraph, the direction that employees and former employees of the companies shall be disregarded in computing the number of shareholders shall not apply to a person holding shares in a company of which he is not for the time being an employee unless, having been formerly in the employment of that company, he held, while in that employment, and has continued after the determination of that employment to hold, shares in that company.

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Exception for Banking or Finance Company providing Capital.

- 7 (1) The first of the basic conditions shall be subject to an exception for any shares or debentures held by or by a nominee for a banking or finance company, where the banking or finance company acquired the shares or debentures or its interest therein in the ordinary course of its business as such and by arrangement with the relevant company or its promoters:

Provided that this exception shall not apply if the banking or finance company has the right (or, where there is more than one such company holding shares or debentures to which this exception has to be applied in determining the relevant company's right to be treated as an exempt private company, they have between them the right) to exercise or control the exercise of one fifth or more of the total voting power at any general meeting of the relevant company.

- (2) Where by virtue of the foregoing sub-paragraph any shares or debentures are excepted from the first of the basic conditions, the second of those conditions shall be subject to an exception for the banking or finance company, itself, where the shares or debentures are held by a nominee for it, and for any interest in those shares or debentures which any person has by virtue of debentures of the banking or finance company or as trustee of a deed for securing an issue of debentures of that company.

Exceptions for Bankruptcies, Liquidations, etc.

- 8 The basic conditions shall be subject to exceptions for—
- (a) any shares or debentures forming part of the assets in a bankruptcy or liquidation of a holder thereof; and
 - (b) any shares or debentures held either—
 - (i) on trusts created for the benefit of his creditors generally by a person having an interest therein ; or
 - (ii) otherwise for the purposes of any composition or scheme made or approved under any Act by a court or an officer of a court for arranging the affairs of such a person.

Meaning of “banking or finance company ”.

- 9 In this Schedule the expression “banking or finance company ” means any body corporate or partnership whose ordinary business includes the business of banking and any other body corporate whose ordinary business includes the business of lending money or of subscribing for shares or debentures, except that it does not include any such other body corporate unless either—
- (a) its shares are quoted or dealt in on a recognised stock exchange ; or
 - (b) it is designated for the purposes of this paragraph by order of the Board of Trade; or
 - (c) it is a subsidiary of a body corporate whose shares are so quoted or dealt in or which is so designated.