



# Companies Act 2006

## 2006 CHAPTER 46

### PART 17

#### A COMPANY'S SHARE CAPITAL

### CHAPTER 10

#### REDUCTION OF SHARE CAPITAL

##### *Introductory*

#### **641 Circumstances in which a company may reduce its share capital**

- (1) A limited company having a share capital may reduce its share capital—
- (a) in the case of a private company limited by shares, by special resolution supported by a solvency statement (see sections 642 to 644);
  - (b) in any case, by special resolution confirmed by the court (see sections 645 to 651).
- (2) A company may not reduce its capital under subsection (1)(a) if as a result of the reduction there would no longer be any member of the company holding shares other than redeemable shares.
- [<sup>F1</sup>(2A) A company may not reduce its share capital under subsection (1)(a) or (b) as part of a scheme by virtue of which a person, or a person together with its associates, is to acquire all the shares in the company or (where there is more than one class of shares in a company) all the shares of one or more classes, in each case other than shares that are already held by that person or its associates.
- (2B) Subsection (2A) does not apply to a scheme under which—
- (a) the company is to have a new parent undertaking,
  - (b) all or substantially all of the members of the company become members of the parent undertaking, and

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- (c) the members of the company are to hold proportions of the equity share capital of the parent undertaking in the same or substantially the same proportions as they hold the equity share capital of the company.
- (2C) In this section—
- “associate” has the meaning given by section 988 (meaning of “associate”), reading references in that section to an offeror as references to the person acquiring the shares in the company;
- “scheme” means a compromise or arrangement sanctioned by the court under Part 26 [<sup>F2</sup>or 26A] (arrangements and reconstructions).]
- (3) [<sup>F3</sup>Subject to subsections (2) to (2B)], a company may reduce its share capital under this section in any way.
- (4) In particular, a company may—
- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up, or
- (b) either with or without extinguishing or reducing liability on any of its shares—
- (i) cancel any paid-up share capital that is lost or unrepresented by available assets, or
- (ii) repay any paid-up share capital in excess of the company's wants.
- (5) A special resolution under this section may not provide for a reduction of share capital to take effect later than the date on which the resolution has effect in accordance with this Chapter.
- (6) This Chapter (apart from subsection (5) above) has effect subject to any provision of the company's articles restricting or prohibiting the reduction of the company's share capital.
- (7) [<sup>F4</sup>In subsection (1)(b), section 91(5)(b)(iii), sections 645 to 651 (except in [<sup>F5</sup>the phrases “sanctioned by the court under Part 26” and “sanctioned by the court under Part 26A”]) and 653(1) “the court” means, in England and Wales, the High Court.]

#### Textual Amendments

- F1** S. 641(2A)-(2C) inserted (4.3.2015) by [The Companies Act 2006 \(Amendment of Part 17\) Regulations 2015 \(S.I. 2015/472\)](#), regs. 2(1), 3(2) (with reg. 2(2))
- F2** Words in s. 641(2C) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 33\(8\)\(a\)](#) (with ss. 2(2), 5(2))
- F3** Words in s. 641(3) substituted (4.3.2015) by [The Companies Act 2006 \(Amendment of Part 17\) Regulations 2015 \(S.I. 2015/472\)](#), regs. 2(1), 3(3) (with reg. 2(2))
- F4** S. 641(7) inserted (22.4.2014) by S.I. 1991/724, Sch. Pt. 1 (as amended by [The High Court and County Court Jurisdiction \(Amendment\) Order 2014 \(S.I. 2014/821\)](#), arts. 1, 2(10)(a)(ii) (with art. 3))
- F5** Words in s. 641(7) substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 33\(8\)\(b\)](#) (with ss. 2(2), 5(2))

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

- C1** S. 641 modified (1.10.2008) by [The Companies Act 2006 \(Commencement No. 7, Transitional Provisions and Savings\) Order 2008 \(S.I. 2008/1886\)](#), [art. 3](#) (which article was revoked (1.10.2009) by S.I. 2008/2860, [art. 6](#) (subject to [Sch. 2](#)) (with arts. 5, 7, 8))

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### Commencement Information

- II** S. 641 wholly in force at 1.10.2009; s. 641 not in force at Royal Assent see s. 1300; s. 641(1)(a)(2)-(6) in force at 1.10.2008 by [S.I. 2008/1886](#), [art. 2](#) (with [arts. 6, 7](#)); s. 641(1)(b) in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(k\)](#) (with [arts. 5, 7, 8, Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

*Private companies: reduction of capital supported by solvency statement*

## 642 Reduction of capital supported by solvency statement

- (1) A resolution for reducing share capital of a private company limited by shares is supported by a solvency statement if—
  - (a) the directors of the company make a statement of the solvency of the company in accordance with section 643 (a “solvency statement”) not more than 15 days before the date on which the resolution is passed, and
  - (b) the resolution and solvency statement are registered in accordance with section 644.
- (2) Where the resolution is proposed as a written resolution, a copy of the solvency statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him.
- (3) Where the resolution is proposed at a general meeting, a copy of the solvency statement must be made available for inspection by members of the company throughout that meeting.
- (4) The validity of a resolution is not affected by a failure to comply with subsection (2) or (3).

## 643 Solvency statement

- (1) A solvency statement is a statement that each of the directors—
  - (a) has formed the opinion, as regards the company's situation at the date of the statement, that there is no ground on which the company could then be found to be unable to pay (or otherwise discharge) its debts; and
  - (b) has also formed the opinion—
    - (i) if it is intended to commence the winding up of the company within twelve months of that date, that the company will be able to pay (or otherwise discharge) its debts in full within twelve months of the commencement of the winding up; or
    - (ii) in any other case, that the company will be able to pay (or otherwise discharge) its debts as they fall due during the year immediately following that date.
- (2) In forming those opinions, the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).
- (3) The solvency statement must be in the prescribed form and must state—
  - (a) the date on which it is made, and
  - (b) the name of each director of the company.

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- (4) If the directors make a solvency statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the registrar, an offence is committed by every director who is in default.
- (5) A person guilty of an offence under subsection (4) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).

#### Commencement Information

- I2** S. 643 wholly in force at 1.1.2008; s. 643 not in force at Royal Assent, see s. 1300; s. 643 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 643 in force at 1.10.2008 in so far as not already in force by S.I. 2008/1886, **art. 2** (with **arts. 6, 7**)

#### 644 Registration of resolution and supporting documents

- (1) Within 15 days after the resolution for reducing share capital is passed the company must deliver to the registrar—
- (a) a copy of the solvency statement, and
  - (b) a statement of capital.

This is in addition to the copy of the resolution itself that is required to be delivered to the registrar under Chapter 3 of Part 3.

- (2) The statement of capital must state with respect to the company's share capital as reduced by the resolution—
- (a) the total number of shares of the company,
  - (b) the aggregate nominal value of those shares,
  - [<sup>F6</sup>(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and]
  - (c) for each class of shares—
    - (i) prescribed particulars of the rights attached to the shares,
    - (ii) the total number of shares of that class, and
    - (iii) the aggregate nominal value of shares of that class, <sup>F7</sup>...
  - <sup>F7</sup>(d) .....
- (3) The registrar must register the documents delivered to him under subsection (1) on receipt.
- (4) The resolution does not take effect until those documents are registered.
- (5) The company must also deliver to the registrar, within 15 days after the resolution is passed, a statement by the directors confirming that the solvency statement was—

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- (a) made not more than 15 days before the date on which the resolution was passed, and
  - (b) provided to members in accordance with section 642(2) or (3).
- (6) The validity of a resolution is not affected by—
- (a) a failure to deliver the documents required to be delivered to the registrar under subsection (1) within the time specified in that subsection, or
  - (b) a failure to comply with subsection (5).
- (7) If the company delivers to the registrar a solvency statement that was not provided to members in accordance with section 642(2) or (3), an offence is committed by every officer of the company who is in default.
- (8) If default is made in complying with this section, an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- (9) A person guilty of an offence under subsection (7) or (8) is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### Textual Amendments

- F6** S. 644(2)(ba) inserted (30.6.2016) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 6 para. 10\(a\)](#); S.I. 2016/321, reg. 6(e)
- F7** S. 644(2)(d) and word omitted (30.6.2016) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 6 para. 10\(b\)](#); S.I. 2016/321, reg. 6(e)

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

- C2** S. 644 modified (1.10.2008) by [The Companies Act 2006 \(Commencement No. 7, Transitional Provisions and Savings\) Order 2008 \(S.I. 2008/1886\)](#), [art. 4](#) (which article was revoked (1.10.2009) by S.I. 2008/2860, [art. 6](#) (with arts. 5, 7, 8, Sch. 2))

#### Commencement Information

- I3** S. 644 wholly in force at 1.10.2008; s. 644 not in force at Royal Assent, see s. 1300; s. 644 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 644 in force at 1.10.2008 in so far as not already in force by [S.I. 2008/1886](#), [art. 2](#) (with [arts. 6, 7](#))

### *Reduction of capital confirmed by the court*

#### **645 Application to court for order of confirmation**

- (1) Where a company has passed a resolution for reducing share capital, it may apply to the court for an order confirming the reduction.
- (2) If the proposed reduction of capital involves either—
  - (a) diminution of liability in respect of unpaid share capital, or
  - (b) the payment to a shareholder of any paid-up share capital,section 646 (creditors entitled to object to reduction) applies unless the court directs otherwise.

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- (3) The court may, if having regard to any special circumstances of the case it thinks proper to do so, direct that section 646 is not to apply as regards any class or classes of creditors.
- (4) The court may direct that section 646 is to apply in any other case.

#### **646 Creditors entitled to object to reduction**

- (1) Where this section applies (see section 645(2) and (4)), every creditor of the company who
  - [<sup>F8</sup>(a)] at the date fixed by the court is entitled to any debt or claim that, if that date were the commencement of the winding up of the company would be admissible in proof against the company, [<sup>F9</sup> and
  - (b) can show that there is a real likelihood that the reduction would result in the company being unable to discharge his debt or claim when it fell due,]
 is entitled to object to the reduction of capital.
- (2) The court shall settle a list of creditors entitled to object.
- (3) For that purpose the court—
  - (a) shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and
  - (b) may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction of capital.
- (4) If a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor on the company securing payment of his debt or claim.
- (5) For this purpose the debt or claim must be secured by appropriating (as the court may direct) the following amount—
  - (a) if the company admits the full amount of the debt or claim or, though not admitting it, is willing to provide for it, the full amount of the debt or claim;
  - (b) if the company does not admit, and is not willing to provide for, the full amount of the debt or claim, or if the amount is contingent or not ascertained, an amount fixed by the court after the like enquiry and adjudication as if the company were being wound up by the court.

#### **Textual Amendments**

- F8** Words in s. 646(1) inserted (1.10.2009) by [The Companies \(Share Capital and Acquisition by Company of its Own Shares\) Regulations 2009 \(S.I. 2009/2022\)](#), **reg. 3(a)**
- F9** S. 646(1)(b) and word inserted (1.10.2009) by [The Companies \(Share Capital and Acquisition by Company of its Own Shares\) Regulations 2009 \(S.I. 2009/2022\)](#), **reg. 3(b)**

#### **647 Offences in connection with list of creditors**

- (1) If an officer of the company—
  - (a) intentionally or recklessly—

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- (i) conceals the name of a creditor entitled to object to the reduction of capital, or
  - (ii) misrepresents the nature or amount of the debt or claim of a creditor, or
- (b) is knowingly concerned in any such concealment or misrepresentation, he commits an offence.
- (2) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **648 Court order confirming reduction**

- (1) The court may make an order confirming the reduction of capital on such terms and conditions as it thinks fit.
- (2) The court must not confirm the reduction unless it is satisfied, with respect to every creditor of the company who is entitled to object to the reduction of capital that either—
- (a) his consent to the reduction has been obtained, or
  - (b) his debt or claim has been discharged, or has determined or has been secured.
- (3) Where the court confirms the reduction, it may order the company to publish (as the court directs) the reasons for reduction of capital, or such other information in regard to it as the court thinks expedient with a view to giving proper information to the public, and (if the court thinks fit) the causes that led to the reduction.
- (4) The court may, if for any special reason it thinks proper to do so, make an order directing that the company must, during such period (commencing on or at any time after the date of the order) as is specified in the order, add to its name as its last words the words “and reduced”.

If such an order is made, those words are, until the end of the period specified in the order, deemed to be part of the company's name.

#### **649 Registration of order and statement of capital**

- (1) The registrar, on production of an order of the court confirming the reduction of a company's share capital and the delivery of a copy of the order and of a statement of capital (approved by the court), shall register the order and statement.

This is subject to section 650 (public company reducing capital below authorised minimum).

- (2) The statement of capital must state with respect to the company's share capital as altered by the order—
- (a) the total number of shares of the company,
  - (b) the aggregate nominal value of those shares,
  - [<sup>F10</sup>(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and]
  - (c) for each class of shares—
    - (i) prescribed particulars of the rights attached to the shares,

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- (ii) the total number of shares of that class, and
- (iii) the aggregate nominal value of shares of that class, <sup>F11</sup>...
- <sup>F11</sup>(d) .....
- (3) The resolution for reducing share capital, as confirmed by the court's order, takes effect—
  - (a) in the case of a reduction of share capital that forms part of a compromise or arrangement sanctioned by the court under Part 26 (arrangements and reconstructions<sup>[F12: general]</sup>)—
    - (i) on delivery of the order and statement of capital to the registrar, or
    - (ii) if the court so orders, on the registration of the order and statement of capital;
  - <sup>F13</sup>(aa) in the case of a reduction of share capital that forms part of a compromise or arrangement sanctioned by the court under Part 26A (arrangements and reconstructions: companies in financial difficulty)—
    - (i) in the case of any company other than one to which sub-paragraph (ii) applies, on delivery of the order and statement of capital to the registrar;
    - (ii) in the case of an overseas company that is not required to register particulars under section 1046, on publication of the order and statement of capital in the Gazette;
    - (iii) in either case, if the court so orders, on the registration of the order and statement of capital.;
  - (b) in <sup>F14</sup>any case not falling within paragraph (a) or (aa)], on the registration of the order and statement of capital.
- (4) Notice of the registration of the order and statement of capital must be published in such manner as the court may direct.
- (5) The registrar must certify the registration of the order and statement of capital.
- (6) The certificate—
  - (a) must be signed by the registrar or authenticated by the registrar's official seal, and
  - (b) is conclusive evidence—
    - (i) that the requirements of this Act with respect to the reduction of share capital have been complied with, and
    - (ii) that the company's share capital is as stated in the statement of capital.

#### Textual Amendments

- F10** S. 649(2)(ba) inserted (30.6.2016) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 6 para. 11\(a\)](#); S.I. 2016/321, reg. 6(e)
- F11** S. 649(2)(d) and word omitted (30.6.2016) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(1), [Sch. 6 para. 11\(b\)](#); S.I. 2016/321, reg. 6(e)
- F12** Word in s. 649(3)(a) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 33\(9\)\(a\)](#) (with ss. 2(2), 5(2))
- F13** S. 649(3)(aa) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 33\(9\)\(b\)](#) (with ss. 2(2), 5(2))
- F14** Words in s. 649(3)(b) substituted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 33\(9\)\(c\)](#) (with ss. 2(2), 5(2))



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#### **Commencement Information**

- I4** S. 649 wholly in force at 1.10.2009; s. 649 not in force at Royal Assent, see s. 1300; s. 649 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 649 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with **arts. 5, 7, 8, Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

### *Public company reducing capital below authorised minimum*

#### **650 Public company reducing capital below authorised minimum**

- (1) This section applies where the court makes an order confirming a reduction of a public company's capital that has the effect of bringing the nominal value of its allotted share capital below the authorised minimum.
- (2) The registrar must not register the order unless either—
  - (a) the court so directs, or
  - (b) the company is first re-registered as a private company.
- (3) Section 651 provides an expedited procedure for re-registration in these circumstances.

#### **651 Expedited procedure for re-registration as a private company**

- (1) The court may authorise the company to be re-registered as a private company without its having passed the special resolution required by section 97.
- (2) If it does so, the court must specify in the order the changes to the company's name and articles to be made in connection with the re-registration.
- (3) The company may then be re-registered as a private company if an application to that effect is delivered to the registrar together with—
  - (a) a copy of the court's order, and
  - (b) notice of the company's name, and a copy of the company's articles, as altered by the court's order.
- (4) On receipt of such an application the registrar must issue a certificate of incorporation altered to meet the circumstances of the case.
- (5) The certificate must state that it is issued on re-registration and the date on which it is issued.
- (6) On the issue of the certificate—
  - (a) the company by virtue of the issue of the certificate becomes a private company, and
  - (b) the changes in the company's name and articles take effect.
- (7) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Chapter 10. (See end of Document for details)*

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

- C3** S. 651 applied (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(3)(g)(ii), [Sch. 4 para. 8\(3\)](#), [\(4\)](#)

*Effect of reduction of capital*

**652 Liability of members following reduction of capital**

- (1) Where a company's share capital is reduced a member of the company (past or present) is not liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between—
- (a) the nominal amount of the share as notified to the registrar in the statement of capital delivered under section 644 [<sup>F15</sup>, 649, 1028A or 1032A of this Act or paragraph 7 of Schedule 4 to the Small Business, Enterprise and Employment Act 2015], and
  - (b) the amount paid on the share or the reduced amount (if any) which is deemed to have been paid on it, as the case may be.
- (2) This is subject to section 653 (liability to creditor in case of omission from list).
- (3) Nothing in this section affects the rights of the contributories among themselves.

**Textual Amendments**

- F15** Words in s. 652(1)(a) substituted (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(3)(g)(ii), [Sch. 4 para. 25](#)

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

- C4** S. 652 modified (1.10.2008) by [The Companies Act 2006 \(Commencement No. 7, Transitional Provisions and Savings\) Order 2008 \(S.I. 2008/1886\)](#), [art. 5](#) (which article was revoked (1.10.2009) by [S.I. 2008/2860](#), [art. 6](#) (with arts. 5, 7, 8, Sch. 2))

**Commencement Information**

- I5** S. 652 wholly in force at 1.10.2009; s. 652 not in force at Royal Assent see s. 1300; s. 652(1)(3) in force for specified purposes at 1.10.2008 by [S.I. 2008/1886](#), [art. 2](#) (with arts 6, 7); s. 652 in force at 1.10.2009 in so far as not already in force by [S.I. 2008/2860](#), [art. 3\(k\)](#) (with arts. 5, 7, 8, Sch. 2) (as amended by [S.I. 2009/1802](#), [art. 18](#))

**653 Liability to creditor in case of omission from list of creditors**

- (1) This section applies where, in the case of a reduction of capital confirmed by the court—
- (a) a creditor entitled to object to the reduction of share capital is by reason of his ignorance—
    - (i) of the proceedings for reduction of share capital, or
    - (ii) of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and

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- (b) after the reduction of capital the company is unable to pay the amount of his debt or claim.
- (2) Every person who was a member of the company at the date on which the resolution for reducing capital took effect under section 649(3) is liable to contribute for the payment of the debt or claim an amount not exceeding that which he would have been liable to contribute if the company had commenced to be wound up on the day before that date.
- (3) If the company is wound up, the court on the application of the creditor in question, and proof of ignorance as mentioned in subsection (1)(a), may if it thinks fit—
- (a) settle accordingly a list of persons liable to contribute under this section, and
  - (b) make and enforce calls and orders on them as if they were ordinary contributories in a winding up.
- (4) The reference in subsection (1)(b) to a company being unable to pay the amount of a debt or claim has the same meaning as in section 123 of the Insolvency Act 1986 (c. 45) or Article 103 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

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