

---

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (repealed). (See end of Document for details)*

---

---

## STATUTORY INSTRUMENTS

---

# 1986 No. 1035 (N.I. 9)

## The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986

- - - - - 23rd June 1986

### *Introductory and interpretation*

#### **Title and commencement**

1.—(1) This Order may be cited as the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.

(2) This Order comes into operation on the expiration of three months from the day on which it is made.

#### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 applies to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Act of 1960” means the Companies Act (Northern Ireland) 1960,

“the Order of 1981” means the Companies (Northern Ireland) Order 1981,

“the Order of 1982” means the Companies (Northern Ireland) Order 1982, and

“the principal Order” means the Companies (Northern Ireland) Order 1986;

and expressions used in this Order and also in the principal Order have the same meanings in this Order as in that (the provisions of Part I of that Order to apply accordingly).

### *Old Public companies*

#### **Meaning of “old public company”**

3.—(1) For the purposes of the principal Order and this Order, an “old public company” is a company limited by shares or by guarantee and having a share capital in respect of which the following conditions are satisfied—

(a) the company either existed on 1st July 1983 or was incorporated after that date pursuant to an application made before that date,

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (repealed). (See end of Document for details)*

- (b) on that date or, if later, on the date of the company's incorporation the company was not or (as the case may be) would not have been a private company within the meaning of section 28 of the Act of 1960, and
- (c) the company has not since that date or the date of the company's incorporation (as the case may be) either been re-registered as a public company or become a private company.

(2) References in the principal Order (other than so much of it as is derived from Part II of the Order of 1981, and other than Article 43 (prohibition on trading under misleading name)) to a public company or a company other than a private company are to be read as including (unless the context otherwise requires) references to an old public company, and references in that Order to a private company are to be read accordingly.

### **Re-registration as public company**

4.—(1) An old public company may be re-registered as a public company if—

- (a) the directors pass a resolution, complying with paragraph (2), that it should be so re-registered, and
- (b) an application for the purpose in the prescribed form and signed by a director or secretary of the company is delivered to the registrar together with the documents mentioned in paragraph (4), and
- (c) at the time of the resolution, the conditions specified in Article 5 are satisfied.

(2) The resolution must alter the company's memorandum so that it states that the company is to be a public company and make such other alterations in it as are necessary to bring it in substance and in form into conformity with the requirements of the principal Order with respect to the memorandum of the public company.

(3) A resolution of the directors under this Article is subject to Article 388 of the principal Order (copy of resolution to be forwarded to registrar within 15 days).

(4) The documents referred to in paragraph (1)(b) are—

- (a) a printed copy of the memorandum as altered in pursuance of the resolution, and
- (b) a statutory declaration in the prescribed form by a director or secretary of the company that the resolution has been passed and that the conditions specified in Article 5 were satisfied at the time of the resolution.

(5) The registrar may accept a declaration under paragraph 4(b) as sufficient evidence that the resolution has been passed and the necessary conditions were satisfied.

(6) Article 57(1) and (3) to (5) of the principal Order applies on an application for re-registration under this Article as it applies on an application under Article 53 of that Order.

### **Conditions for re-registering under Article 4**

5.—(1) The following are the conditions referred to in Article 4(1)(c) (being conditions also relevant under Article 6).

(2) At the time concerned, the nominal value of the company's allotted share capital must not be less than the authorised minimum (defined in Article 128 of the principal Order).

(3) In the case of all the shares of the company, or of all those of its shares which are comprised in a portion of the share capital which satisfies the condition in paragraph (2)—

- (a) each share must be paid up at least as to one-quarter of the nominal value of that share and the whole of any premium on it;
- (b) where any of the shares in question or any premium payable on them has been fully or partly paid up by an undertaking given by any person that he or another should do work or

perform services for the company or another, the undertaking must have been performed or otherwise discharged; and

- (c) where any of the shares in question has been allotted as fully or partly paid up as to its nominal value or any premium payable on it otherwise than in cash, and the consideration for the allotment consists of or includes an undertaking (other than one to which sub-paragraph (b) applies) to the company, then either—
  - (i) that undertaking must have been either performed or otherwise discharged, or
  - (ii) there must be a contract between the company and some person pursuant to which the undertaking is to be performed within 5 years from the time of the resolution.

### **Old public company becoming private**

6.—(1) An old public company may pass a special resolution not to be re-registered under Article 4 as a public company; and Article 64 of the principal Order (litigated objection by shareholders) applies to the resolution as it would apply to a special resolution by a public company to be re-registered as private.

(2) If either—

- (a) 28 days from the passing of the resolution elapse without an application being made under Article 64 of the principal Order (as applied), or
- (b) such an application is made and proceedings are concluded on the application without the court making an order for the cancellation of the resolution,

the registrar shall issue the company with a certificate stating that it is a private company; and the company then becomes a private company by virtue of the issue of the certificate.

(3) For the purposes of paragraph (2)(b), proceedings on the application are concluded—

- (a) except in a case within sub-paragraph (b), when the period mentioned in Article 64(7) of the principal Order (as applied) for delivering an office copy of the court's order under that Article to the registrar has expired, or
- (b) when the company has been notified that the application has been withdrawn.

(4) If an old public company delivers to the registrar a statutory declaration in the prescribed form by a director or secretary of the company that the company does not at the time of the declaration satisfy the conditions specified in Article 5 for the company to be re-registered as public, the registrar shall issue the company with a certificate stating that it is a private company; and the company then becomes a private company by virtue of the issue of the certificate.

(5) A certificate issued to a company under paragraph (2) or (4) is conclusive evidence that the requirements of that paragraph have been complied with and that the company is a private company.

### **Failure by old public company to obtain new classification**

7.—(1) If at any time a company which is an old public company has not delivered to the registrar a declaration under Article 6(4), the company and any officer of it who is in default is guilty of an offence unless at that time the company—

- (a) has applied to be re-registered under Article 4, and the application has not been refused or withdrawn, or
- (b) has passed a special resolution not to be re-registered under that Article, and the resolution has not been revoked, and has not been cancelled under Article 64 of the principal Order as applied by Article 6 of this Order.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding one-fifth of the statutory maximum or, on conviction after continued contravention,

to a daily default fine not exceeding one-fiftieth of the statutory maximum for every day on which that paragraph is contravened.

### **Shares of old public company held by itself; charges on own shares**

**8.**—(1) The following has effect notwithstanding Article 3(2).

(2) References to a public company in Articles 156 to 159 of the principal Order (treatment of a company's shares when acquired by itself) do not include an old public company; and references in those Articles to a private company are to be read accordingly.

(3) In the case of a company which after 30th September 1984 remained an old public company and did not on or before that date apply to be re-registered under Article 10 of the Order of 1981 as a public company, any charge on its own shares which was in existence on or immediately before that date is a permitted charge for the purposes of Chapter V of Part VI of the principal Order and accordingly not void under Article 160 of that Order.

### **Offers of shares and debentures by old public company**

**9.** Article 91 of the principal Order applies to an old public company as if it were a private company such as is mentioned in paragraph (1) of that Article.

### **Trading under misleading name**

**10.**—(1) An old public company is guilty of an offence if it carries on any trade, profession or business under a name which includes, as its last part, the words “public limited company” or any contraction or imitation of those words.

(2) During the 3 years following the re-registration of an old public company under Article 10 of the Order of 1981, Article 356(1) of the principal Order and any other statutory provision requiring or authorising the name of the company to be shown on any document or other object, apply as if any reference in that provision to the name of the company were a reference to a name which either is its name or was its name before re-registration.

(3) A company guilty of an offence under paragraph (1), and any officer of the company who is in default, is liable on summary conviction as for an offence under Article 43 of the principal Order.

### **Payment for share capital**

**11.**—(1) Subject to paragraph (2), Articles 109, 111 to 113, 116, 118 and 120 to 125 of the principal Order apply to a company whose directors have passed and not revoked a resolution to be re-registered under Article 4 of this Order, as those Articles apply to a public company.

(2) Articles 109, 111 to 113, 118 and 122 of the principal Order do not apply to the allotment of shares by a company, other than a public company registered as such on its original incorporation, where the contract for the allotment was entered into—

- (a) except in a case falling within sub-paragraph (b), on or before 31st December 1984;
- (b) in the case of a company re-registered or registered as a public company in pursuance of—
  - (i) a resolution to be re-registered under Article 53 of the principal Order,
  - (ii) a resolution to be re-registered under Article r of this Order, or
  - (iii) a resolution by a joint stock company that the company be a public company,
 being a resolution that was passed on or before 31st December 1984, before the date on which the resolution was passed.

### *Miscellaneous savings*

#### **Pre-1901 companies limited by guarantee**

**12.** Article 26 of the principal Order does not apply in the case of companies registered before 1st January 1901.

#### **Company official seal**

**13.—(1)** A company which was incorporated before 1st January 1982 and which has such an official seal as is mentioned in Article 50 of the principal Order may use the seal for sealing such securities and documents as are there mentioned, notwithstanding anything in any instrument constituting or regulating the company or in any instrument made before that date which relates to any securities issued by the company.

(2) Any provision of such an instrument which requires any such securities or documents to be signed shall not apply to the securities or documents if they are sealed with that seal.

#### **Share premiums: retrospective relief**

**14.—(1)** The relief given by this Article (being a re-enactment of Article 40 of the Order of 1982) applies only where a company has issued shares in circumstances to which this Article applies before 4th February 1981.

(2) Subject as follows, this Article applies where the issuing company (that is, the company issuing shares as mentioned in Article 140 of the principal Order) has issued at a premium shares which were allotted in pursuance of any arrangement providing for the allotment of shares in the issuing company on terms that the consideration for the shares allotted was to be provided by the issue or transfer to the issuing company of shares in another company or by the cancellation of any shares in that other company not held by the issuing company.

(3) The other company in question must either have been at the time of the arrangement a subsidiary of the issuing company or of any company which was then the issuing company's holding company or have become such a subsidiary on the acquisition or cancellation of its shares in pursuance of the arrangement.

(4) Any part of the premiums on the shares so issued which was not transferred to the company's share premium account in accordance with section 56 of the Act of 1960 shall be treated as if that section had never applied to those premiums (and may accordingly be disregarded in determining the sum to be included in the company's share premium account).

(5) Article 143(2) and (3) of the principal Order applies for the interpretation of this Article; and for the purposes of this Article—

- (a) “company” (except in references to the issuing company) includes any body corporate, and
- (b) the definition of “arrangement” in Article 141(7) of the principal Order applies.

(6) This Article is deemed included in Chapter III of Part VI of the principal Order for the purpose of the Department's power under Article 144 of that Order to make regulations in respect of relief from the requirements of Article 140 of that Order.

#### **Saving, in case of re-issued debentures, of rights of certain mortgagees**

**15.** Whereas by section 104 of the Companies (Consolidation) Act 1908 it was provided that, upon the re-issue of redeemed debentures, the person entitled to the debentures should have the same rights and priorities as if the debentures had not previously been issued:

---

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (repealed). (See end of Document for details)*

---

And whereas section 49 of the Companies Act (Northern Ireland) 1930 amended section 104 of the Act of 1908 so as to provide (among other things) that the said person should have the same priorities as if the debentures had never been redeemed, but saved, in the case of debentures redeemed before, but re-issued after, 1st January 1933, the rights and priorities of persons under mortgages and charges created before that date:

Now, therefore, where any debentures which were redeemed before the date last mentioned have been re-issued after that date and before the commencement of the Act of 1960 (1st April 1961), or are or have been re-issued after that commencement, the re-issue of the debentures does not prejudice, and is deemed never to have prejudiced, any right or priority which any person would have had under or by virtue of any such mortgage or charge as above referred to if section 104 of the Act of 1908, as originally enacted, had been enacted in the Act of 1960 instead of section 89 of that Act, and in the principal Order instead of Article 203 of that Order.

#### **Removal of directors appointed for life**

16. Article 311(1) of the principal Order does not, in the case of a private company, authorise the removal of a director holding office for life on 31st July 1979, whether or not subject to retirement under an age limit by virtue of the company's articles or otherwise.

#### **Tax-free payments to directors**

17. Paragraph (1) of Article 319 of the principal Order does not apply to remuneration under a contract which was in force on 27th October 1959 and provides expressly (and not by reference to the company's articles) for payment of remuneration as mentioned in that paragraph; and paragraph (2) of that Article does not apply to any provision contained in such a contract.

#### **Statutory declaration of solvency in voluntary winding up**

18. In relation to a winding up commenced before 1st July 1983, Article 535 of the principal Order applies in the form of section 253 of the Act of 1960, without the amendment of that section made by Article 104 of the Order of 1982.

#### **Effect of floating charge in winding up**

19. In relation to a charge created on or before 30th September 1960, Article 573(1) of the principal Order has effect with the substitution of “ 6 months ” for “ 12 months ”.

#### **Priority of old debts in winding up**

20. Nothing in this Order affects the priority to which any person may have been entitled under section 287 of the Act of 1960 in respect of a debt of any of the descriptions specified in paragraph (a) (ii) of subsection (1) of that section (which included references to profits tax and excess profits tax).

#### **Savings as to certain old liquidations**

21.—(1) The provisions of the principal Order with respect to winding up (other than Article 588 and paragraph (2)) do not apply to any company of which the winding up commenced before 1st January 1933; but every such company shall be wound up in the same manner and with the same incidents as if the Companies Act (Northern Ireland) 1932, the Act of 1960 and the principal Order (apart from the provisions above-mentioned) had not passed or been made; and, for the purposes of the winding up, the statutory provision or provisions under which the winding up commenced are deemed to remain in full force.

(2) An office copy of every order staying the proceedings in a winding up commenced as mentioned in paragraph (1) shall forthwith be forwarded by the company, or otherwise as may be prescribed, to the registrar for registration.

*Art. 22 rep. by SI 2001/3649*

*Art. 23—Amendments*

#### *Repeals and continuity of law*

*Art. 24—Repeals*

### **Continuity of law**

**25.—**(1) In this Article—

- (a) “the Orders” means the principal Order, the Company Securities (Insider Dealing) (Northern Ireland) Order 1986, the Business Names (Northern Ireland) Order 1986 and this Order;
- (b) “the Acts” means the Companies Acts (Northern Ireland) 1960 to 1983 and any other statutory provision which is repealed by this Order and replaced by a corresponding provision in the Orders; and
- (c) “the commencement date” means the date on which this Order comes into operation.

(2) Where any period of time specified in a provision of the Acts is current immediately before the commencement date, the Orders have effect as if the corresponding provision had been in force when the period began to run; and (without prejudice to the foregoing) any period of time so specified and current is deemed for the purposes of the Orders—

- (a) to run from the date or event from which it was running immediately before the commencement date, and
- (b) to expire (subject to any provision of the Orders for its extension) whenever it would have expired if the Orders had not been passed;

and any rights, priorities, liabilities, reliefs, obligations, requirements, powers, duties or exemptions dependent on the beginning, duration or end of such a period as above mentioned shall be under the Orders as they were or would have been under the Acts.

(3) Where in any provision of the Orders there is a reference to another provision of those Orders, and the first-mentioned provision operates, or is capable of operating, in relation to things done or omitted, or events occurring or not occurring, in the past (including in particular past acts of compliance with any statutory provision, failures of compliance, contraventions, offences and convictions of offences), the reference to that other provision is to be read as including a reference to the corresponding provision of the Acts.

(4) A contravention of any provision of the Acts committed before the commencement date shall not be visited with any more severe punishment under or by virtue of the Orders than would have been applicable under that provision at the time of the contravention; but—

- (a) where an offence for the continuance of which a penalty was provided has been committed under any provision of the Acts, proceedings may be taken under the Orders in respect of the continuance of the offence after the commencement date in the like manner as if the offence had been committed under the corresponding provision of the Orders; and
- (b) the repeal of any transitory provision of the Acts (not replaced by any corresponding provision of the Orders) requiring a thing to be done within a certain time does not affect a person's continued liability to be prosecuted and punished in respect of the failure, or continued failure, to do that thing.

---

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (repealed). (See end of Document for details)

---

(5) The generality of section 29(3)(b) of the Interpretation Act (Northern Ireland) 1954 is not affected by any specific conversion of references made by this Order, nor by the inclusion in any provision of the Orders of a reference (whether express or implied, and in whatever phraseology) to the provision of the Acts corresponding to that provision, or to a provision of the Acts which is replaced by a corresponding provision of the Orders.

(6) Nothing in the Orders affects—

- (a) the registration or re-registration of any company under the former Companies Acts, or the continued existence of any company by virtue of such registration or re-registration; or
- (b) the application of—
  - (i) Table B in the Joint Stock Companies Act 1856, or
  - (ii) Table A in the Companies Act 1862, the Companies (Consolidation) Act 1908, the Companies Act (Northern Ireland) 1932 or the Act of 1960,to any company existing immediately before the commencement date; or
- (c) the operation of any statutory provision providing for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company under any of the former Companies Acts.

(7) Anything saved from repeal by section 403 of the Act of 1960 and still in force immediately before the commencement date remains in force notwithstanding the repeal by this Order of any provision of that Act.

(8) Where any provision of the Orders was, immediately before the commencement date, contained in or given effect by a statutory rule (whether or not made under a power in any of the Acts), then—

- (a) the foregoing provisions of this Article have effect as if that provision was contained in the Acts, and
- (b) insofar as the provision was, immediately before that date, subject to a power (whether or not under the Acts) of variation or revocation, nothing in the Orders is to be taken as prejudicing any future exercise of the power.

(9) The provisions of this Article are without prejudice to the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 (savings from, and effect of, repeals); and for the purposes of section 29(3) of that Act (effect of provisions repealing and re-enacting other provisions), any provision of the Acts which is replaced by a provision of the principal Order, the Company Securities (Insider Dealing) (Northern Ireland) Order 1986 or the Business Names (Northern Ireland) Order 1986 is deemed to have been repealed and re-enacted by that one of the Orders and not by this Order.



## SCHEDULES

*Schedule 1 — Amendments*

*Schedule 2 — Repeals*

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (repealed).