



Aircraft and Shipbuilding Industries Act 1977

1977 CHAPTER 3

PART II

VESTING OF SECURITIES AND OTHER ASSETS IN THE CORPORATIONS AND ACQUIRED COMPANIES

Safeguarding of assets, avoidance of certain transactions, etc.

30 Dissipation of assets by transactions involving holders of securities etc.

- (1) Subject to subsection (2) below, this section applies where any company which comes into public ownership has, after the safeguarding date and before the date of transfer,—
- (a) made any payments to its members for the purpose of reducing the share capital of the company otherwise than by the redemption of any redeemable securities; or
 - (b) redeemed any securities which the company was not under any obligation to redeem before the date of transfer or made payments in respect of the redemption of any securities which exceed the minimum payments required to satisfy the rights existing on the safeguarding date of the holders of those securities ; or
 - (c) made any other payment to the holders of its securities (in their capacity as such) out of capital moneys, or distributed assets other than money to the holders of its securities (in their capacity as such); or
 - (d) made to the holders of any of its securities any payment by way of special dividend in respect of the securities ; or
 - (e) repaid any sum the right to repayment of which, if the sum had not been repaid, would, following the service of a notice under section 21 above, have been treated as a security or part of a security under subsection (6) of that section ; or
 - (f) entered into any transaction the effect of which is that property or rights of the company are transferred or granted to any person and the consideration for

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the transfer or grant is received by the holders of securities of the company or any of them (in their capacity as such); or

- (g) effected a transfer of rights of ownership in any works to another company of which it was at the time of the transfer a subsidiary or to another subsidiary of that company;

and in the following provisions of this section the transactions specified in paragraphs (a) to (g) above are, subject to subsection (2) below, referred to as “material transactions”.

- (2) For the purposes of this section a transaction is not a material transaction if it has been approved in writing by the Secretary of State for those purposes, either generally or specially, and whether before or after the date of the transaction.
- (3) An approval given by the Secretary of State under subsection (2) above may specify as a condition of the approval such of the conditions (if any) falling within subsection (4) below as is appropriate to the transaction to which the approval relates, but the Secretary of State shall not give an approval subject to any such condition unless he is satisfied that, after not less than 14 days notice in writing, a meeting has been held of the holders for the time being of the securities which would be affected by the condition and that a majority in number representing three-fourths in value of those holders who are present and voting either in person or by proxy at the meeting have agreed to the condition.
- (4) The conditions referred to in subsection (3) above are—
- (a) in the case of a transaction falling within any of paragraphs (a), (c), (d) and (f) of subsection (1) above, a condition requiring the compensation payable under this Act in respect of the securities of the members or holders concerned to be reduced to such extent as may be specified in the approval or as may be subsequently determined in a manner so specified ; and
 - (b) in the case of a transaction falling within paragraph (g) of subsection (1) above, a condition requiring the compensation payable under this Act in respect of such securities of the company effecting the transfer as may be specified in the approval to be reduced to such extent as may be so specified or as may be subsequently determined in a manner so specified.
- (5) The relevant Corporation may, in the case of any company which comes into public ownership, at any time within the period of 9 months beginning on the date of transfer, make an application to the arbitration tribunal in respect of any transaction which in the opinion of the Corporation is a material transaction and, subject to subsection (6) below,—
- (a) all persons who were directors of the company at the time when the transaction was entered into, and
 - (b) in the case of a transaction mentioned in paragraph (f) of subsection (1) above, or any transaction mentioned in paragraph (c) thereof where the payments made or assets distributed represent the consideration for the transfer or grant of property or rights by the company to any other person, the persons to whom the property or rights were transferred or granted,
- shall, unless the tribunal otherwise direct, be made parties to the application.
- (6) In the case of any transaction entered into in pursuance of a resolution of the directors of a company, no person who was not a director at the time when the resolution authorising or recommending the transaction was passed shall, by reason of his

directorship, be made a party to an application under subsection (5) above relating to that transaction.

- (7) If the arbitration tribunal are satisfied that a transaction in respect of which an application under subsection (5) above is made is a material transaction, they shall determine the extent of the net loss resulting to the Corporation from the transaction and shall make such orders against any of the parties to the application as they think just, having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case, for the payment by them to the Corporation of sums sufficient to enable the net loss, or such part thereof as the tribunal think just, to be made good or met.