



# Companies Act 1985

## 1985 CHAPTER 6

### PART XV

#### ORDERS IMPOSING RESTRICTIONS ON SHARES ([<sup>F1</sup>SECTION 445])

##### Textual Amendments

- F1** Words in Pt. 15 heading substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1), [Sch. 4 para. 11\(2\)](#) (with art. 12)

#### **454 Consequence of order imposing restrictions.**

- (1) So long as any shares are directed to be subject to the restrictions of this Part [<sup>F2</sup>then, subject to any directions made in relation to an order [<sup>F3</sup>pursuant to section 445(1A) or 456(1A)]]—
  - (a) any transfer of those shares or, in the case of unissued shares, any transfer of the right to be issued with them, and any issue of them, is void;
  - (b) no voting rights are exercisable in respect of the shares;
  - (c) no further shares shall be issued in right of them or in pursuance of any offer made to their holder; and
  - (d) except in a liquidation, no payment shall be made of any sums due from the company on the shares, whether in respect of capital or otherwise.
- (2) Where shares are subject to the restrictions of subsection (1)(a), any agreement to transfer the shares or, in the case of unissued shares, the right to be issued with them is void (except [<sup>F4</sup>such agreement or right as may be made or exercised under the terms of directions made by the Secretary of State or the court under [<sup>F5</sup>section 445(1A) or 456(1A)]] or[an agreement to [<sup>F6</sup>transfer] the shares on the making of an order under section 456(3)(b) below).
- (3) Where shares are subject to the restrictions of subsection (1)(c) or (d), an agreement to transfer any right to be issued with other shares in right of those shares, or to

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receive any payment on them (otherwise than in a liquidation) is void (except [<sup>F7</sup>such agreement or right as may be made or exercised under the terms of directions made by the Secretary of State or the court under [<sup>F8</sup>section 445(1A) or 456(1A)] or]an agreement to transfer any such right on the [<sup>F6</sup>transfer] of the shares on the making of an order under section 456(3)(b) below).

#### Extent Information

**E1** Act: The provisions of this Act that remain in force extended (Northern Ireland) (1.1.2007, 20.1.2007, 6.4.2007, 30.9.2007, 1.10.2007, 1.11.2007, 15.12.2007, 6.4.2008 and 1.10.2008 for certain purposes and otherwise 1.10.2009) by *Companies Act 2006* (c. 46), ss. 2, **1284(1)**, 1300; S.I. 2006/3428, art. 3(2)(e) (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5 (as amended by S.I. 2007/3495, art. 11, Sch. 5)); S.I. 2007/1093, art. 2(1)(e); S.I. 2007/2194, arts. 2-5 (with art. 12); S.I. 2007/2607, art. 2(2); S.I. 2007/3495, arts. 3, 5 (with arts. 7, 12); S.I. 2008/1886 arts. 1(3), 2(d) (with arts. 6, 7); S.I. 2008/2860, art. 3(z) (with arts. 5, 7, 8, Sch. 2 (as amended by S.I. 2009/1802, art. 18, Sch., S.I. 2009/1802, art. 18, Sch.))

#### Textual Amendments

- F2** Words in s. 454(1) inserted by S.I. 1991/1646, **reg. 6(a)**
- F3** Words in s. 454(1) substituted (1.10.2007) by *The Companies Act 2006* (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 11(3)** (with art. 12)
- F4** Words in s. 454(2) inserted by S.I. 1991/1646, **reg. 6(b)**
- F5** Words in s. 454(2) substituted (1.10.2007) by *The Companies Act 2006* (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 11(4)** (with art. 12)
- F6** Words substituted by *Companies Act 1989* (c. 40, SIF 27), ss. 145, 213(2), **Sch. 19 para. 10(2)**
- F7** Words in s. 454(3) inserted by S.I. 1991/1646, **reg. 6(c)**
- F8** Words in s. 454(3) substituted (1.10.2007) by *The Companies Act 2006* (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 11(5)** (with art. 12)

### 455 Punishment for attempted evasion of restrictions.

- (1) [<sup>F9</sup>Subject to the terms of any directions made under [<sup>F10</sup>section 445(1A) or 456]] a person [<sup>F11</sup>commits an offence if he]—
- (a) exercises or purports to exercise any right to dispose of any shares which, to his knowledge, are for the time being subject to the restrictions of this Part or of any right to be issued with any such shares, or
  - (b) votes in respect of any such shares (whether as holder or proxy), or appoints a proxy to vote in respect of them, or
  - (c) being the holder of any such shares, fails to notify of their being subject to those restrictions any person whom he does not know to be aware of that fact but does know to be entitled (apart from the restrictions) to vote in respect of those shares whether as holder or as proxy, or
  - (d) being the holder of any such shares, or being entitled to any right to be issued with other shares in right of them, or to receive any payment on them (otherwise than in a liquidation), enters into any agreement which is void under section 454(2) or (3).

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- (2) <sup>F12</sup>Subject to the terms of any directions made under <sup>F13</sup>section 445(1A) or 456]] if shares in a company are issued in contravention of the restrictions, <sup>F14</sup>an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.]

- <sup>F15</sup>(2A) 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.]

- (3) <sup>F16</sup>.....

#### Extent Information

**E2** Act: The provisions of this Act that remain in force extended (Northern Ireland) (1.1.2007, 20.1.2007, 6.4.2007, 30.9.2007, 1.10.2007, 1.11.2007, 15.12.2007, 6.4.2008 and 1.10.2008 for certain purposes and otherwise 1.10.2009) by Companies Act 2006 (c. 46), ss. 2, **1284(1)**, 1300; S.I. 2006/3428, art. 3(2)(e) (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5 (as amended by S.I. 2007/3495, art. 11, Sch. 5)); S.I. 2007/1093, art. 2(1)(e); S.I. 2007/2194, arts. 2-5 (with art. 12); S.I. 2007/2607, art. 2(2); S.I. 2007/3495, arts. 3, 5 (with arts. 7, 12); S.I. 2008/1886 arts. 1(3), 2(d) (with arts. 6, 7); S.I. 2008/2860, art. 3(z) (with arts. 5, 7, 8, Sch. 2 (as amended by S.I. 2009/1802, art. 18, Sch., S.I. 2009/1802, art. 18, Sch.))

#### Textual Amendments

- F9** Words in s. 455(1) inserted by S.I. 1991/1646, **reg. 7(a)**
- F10** Words in s. 455(1) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 11(6)** (with art. 12)
- F11** Words in s. 455(1) substituted (1.10.2007) by Companies Act 2006 (c. 46), ss. 1124, 1300, **Sch. 3 para. 7(1)** (with s. 1133); S.I. 2007/2194, **art. 2(1)(k)** (with art. 12 and subject to Sch. 1)
- F12** Words in s. 455(2) inserted by S.I. 1991/1646, **reg. 7(b)**
- F13** Words in s. 455(2) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 11(7)** (with art. 12)
- F14** Words in s. 455(2) substituted (1.10.2007) by Companies Act 2006 (c. 46), ss. 1124, 1300, **Sch. 3 para. 7(2)** (with s. 1133); S.I. 2007/2194, **art. 2(1)(k)** (with art. 12 and subject to Sch. 1)
- F15** S. 455(2A) inserted (1.10.2007) by Companies Act 2006 (c. 46), ss. 1124, 1300, **Sch. 3 para. 7(3)** (with s. 1133); S.I. 2007/2194, **art. 2(1)(k)** (with art. 12 and subject to Sch. 1)
- F16** S. 455(3) repealed (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(3), **Sch. 5** (with art. 12)

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

**C1** S. 455 restricted (20.1.2007, 6.4.2007, 1.10.2007, 6.4.2008 for specified purposes) by Companies Act 2006 (c. 46), **ss. 1126**, 1300 (with s. 1133); S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5 (as amended by S.I. 2007/3495, art. 11, Sch. 5)); S.I. 2007/1093, **art. 2(2)(c)**; S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with art. 12 and subject to Sch. 1); S.I. 2007/3495, **art. 3(1)(n)** (with arts. 7, 12)

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#### 456 Relaxation and removal of restrictions.

(1) Where shares in a company are by order made subject to the restrictions of this Part, application may be made to the court for an order directing that the shares be no longer so subject.

[<sup>F17</sup>(1A) Where the court is satisfied that an order subjecting the shares to the restrictions of this Part unfairly affects the rights of third parties in respect of shares then the court, for the purpose of protecting such rights and subject to such terms as it thinks fit and in addition to any order it may make under subsection (1), may direct on an application made under that subsection that such acts by such persons or descriptions of persons and for such purposes, as may be set out in the order, shall not constitute a breach of the restrictions of Part XV of this Act. Subsection (3) does not apply to an order made under this subsection.]

(2) If the order applying the restrictions was made by the Secretary of State, or he has refused to make an order disapplying them, the application may be made by any person aggrieved; <sup>F18</sup> . . . .

(3) Subject as follows, an order of the court or the Secretary of State directing that shares shall cease to be subject to the restrictions may be made only if—

- (a) the court or (as the case may be) the Secretary of State is satisfied that the relevant facts about the shares have been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or
- (b) the shares are to be [<sup>F19</sup>transferred for valuable consideration] and the court (in any case) or the Secretary of State (if the order was made under section <sup>F20</sup> . . . 445) approves the [<sup>F19</sup>transfer].

(4) [<sup>F21</sup>Without prejudice to the power of the court to give directions under subsection (1A),] where shares in a company are subject to the restrictions, the court may on application order the shares to be sold, subject to the court's approval as to the sale, and may also direct that the shares shall cease to be subject to the restrictions.

An application to the court under this subsection may be made by the Secretary of State <sup>F22</sup> . . . , or by the company.

(5) Where an order has been made under subsection (4), the court may on application make such further order relating to the sale or transfer of the shares as it thinks fit.

An application to the court under this subsection may be made—

- (a) by the Secretary of State <sup>F23</sup> . . . , or
- (b) by the company, or
- (c) by the person appointed by or in pursuance of the order to effect the sale, or
- (d) by any person interested in the shares.

(6) An order (whether of the Secretary of State or the court) directing that shares shall cease to be subject to the restrictions of this Part, if it is—

- (a) expressed to be made with a view to permitting a transfer of the shares, or
- (b) made under subsection (4) of this section,

may continue the restrictions mentioned in paragraphs (c) and (d) of section 454(1), either in whole or in part, so far as they relate to any right acquired or offer made before the transfer.

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- (7) Subsection (3) does not apply to an order directing that shares shall cease to be subject to any restrictions which have been continued in force in relation to those shares under subsection (6).

#### Extent Information

- E3** Act: The provisions of this Act that remain in force extended (Northern Ireland) (1.1.2007, 20.1.2007, 6.4.2007, 30.9.2007, 1.10.2007, 1.11.2007, 15.12.2007, 6.4.2008 and 1.10.2008 for certain purposes and otherwise 1.10.2009) by [Companies Act 2006 \(c. 46\)](#), ss. 2, **1284(1)**, 1300; [S.I. 2006/3428](#), art. 3(2)(e) (subject to [art. 5](#), [Sch. 1](#) and with arts. 6, 8, [Sch. 5](#) (as amended by [S.I. 2007/3495](#), art. 11, [Sch. 5](#))); [S.I. 2007/1093](#), art. 2(1)(e); [S.I. 2007/2194](#), arts. 2-5 (with [art. 12](#)); [S.I. 2007/2607](#), art. 2(2); [S.I. 2007/3495](#), arts. 3, 5 (with arts. 7, 12); [S.I. 2008/1886](#) arts. 1(3), 2(d) (with arts. 6, 7); [S.I. 2008/2860](#), art. 3(z) (with arts. 5, 7, 8, [Sch. 2](#) (as amended by [S.I. 2009/1802](#), art. 18, [Sch.](#), [S.I. 2009/1802](#), art. 18, [Sch.](#)))

#### Textual Amendments

- F17** S. 456(1A) inserted by [S.I. 1991/1646](#), [regs. 8\(a\)](#), 9
- F18** Words in s. 456(2) repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1)(3), [Sch. 4](#) para. 11(8), [Sch. 5](#) (with [art. 12](#))
- F19** Words in s. 456(3)(b) substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 145, 213(2), [Sch. 19 para. 10\(1\)](#)
- F20** Words in s. 456(3)(b) repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1)(3), [Sch. 4](#) para. 11(9), [Sch. 5](#) (with [art. 12](#))
- F21** Words in s. 456(4) inserted by [S.I. 1991/1646](#), [reg. 8\(b\)](#)
- F22** Words in s. 456(4) repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1)(3), [Sch. 4](#) para. 11(10), [Sch. 5](#) (with [art. 12](#))
- F23** Words in s. 456(5)(a) repealed (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1)(3), [Sch. 4](#) para. 11(11), [Sch. 5](#) (with [art. 12](#))

#### 457 Further provisions on sale by court order of restricted shares.

- (1) Where shares are sold in pursuance of an order of the court under section 456(4) the proceeds of sale, less the costs of the sale, shall be paid into court for the benefit of the persons who are beneficially interested in the shares; and any such person may apply to the court for the whole or part of those proceeds to be paid to him.
- (2) On application under subsection (1) the court shall (subject as provided below) order the payment to the applicant of the whole of the proceeds of sale together with any interest thereon or, if any other person had a beneficial interest in the shares at the time of their sale, such proportion of those proceeds and interest as is equal to the proportion which the value of the applicant's interest in the shares bears to the total value of the shares.
- (3) On granting an application for an order under section 456(4) or (5) the court may order that the applicant's costs be paid out of the proceeds of sale; and if that order is made, the applicant is entitled to payment of his costs out of those proceeds before any person interested in the shares in question receives any part of those proceeds.

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### **Extent Information**

- E4** Act: The provisions of this Act that remain in force extended (Northern Ireland) (1.1.2007, 20.1.2007, 6.4.2007, 30.9.2007, 1.10.2007, 1.11.2007, 15.12.2007, 6.4.2008 and 1.10.2008 for certain purposes and otherwise 1.10.2009) by [Companies Act 2006 \(c. 46\)](#), ss. 2, [1284\(1\)](#), 1300; [S.I. 2006/3428](#), art. 3(2)(e) (subject to [art. 5](#), [Sch. 1](#) and with arts. 6, 8, [Sch. 5](#) (as amended by [S.I. 2007/3495](#), art. 11, [Sch. 5](#))); [S.I. 2007/1093](#), art. 2(1)(e); [S.I. 2007/2194](#), arts. 2-5 (with art. 12); [S.I. 2007/2607](#), art. 2(2); [S.I. 2007/3495](#), arts. 3, 5 (with arts. 7, 12); [S.I. 2008/1886](#) arts. 1(3), 2(d) (with arts. 6, 7); [S.I. 2008/2860](#), art. 3(z) (with arts. 5, 7, 8, [Sch. 2](#) (as amended by [S.I. 2009/1802](#), art. 18, [Sch.](#), [S.I. 2009/1802](#), art. 18, [Sch.](#)))

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