



Companies Act 2006

2006 CHAPTER 46

PART 18

ACQUISITION BY LIMITED COMPANY OF ITS OWN SHARES

CHAPTER 4

PURCHASE OF OWN SHARES

General provisions

690 Power of limited company to purchase own shares

- (1) A limited company having a share capital may purchase its own shares (including any redeemable shares), subject to—
 - (a) the following provisions of this Chapter, and
 - (b) any restriction or prohibition in the company's articles.
- (2) A limited company may not purchase its own shares if as a result of the purchase there would no longer be any issued shares of the company other than redeemable shares or shares held as treasury shares.

691 Payment for purchase of own shares

- (1) A limited company may not purchase its own shares unless they are fully paid.
- (2) Where a limited company purchases its own shares, the shares must be paid for on purchase.

692 Financing of purchase of own shares

- (1) A private limited company may purchase its own shares out of capital in accordance with Chapter 5.

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- (2) Subject to that—
- (a) a limited company may only purchase its own shares out of—
 - (i) distributable profits of the company, or
 - (ii) the proceeds of a fresh issue of shares made for the purpose of financing the purchase, and
 - (b) any premium payable on the purchase by a limited company of its own shares must be paid out of distributable profits of the company, subject to subsection (3).
- (3) If the shares to be purchased were issued at a premium, any premium payable on their purchase by the company may be paid out of the proceeds of a fresh issue of shares made for the purpose of financing the purchase, up to an amount equal to—
- (a) the aggregate of the premiums received by the company on the issue of the shares purchased, or
 - (b) the current amount of the company’s share premium account (including any sum transferred to that account in respect of premiums on the new shares),
- whichever is the less.
- (4) The amount of the company’s share premium account is reduced by a sum corresponding (or by sums in the aggregate corresponding) to the amount of any payment made under subsection (3).
- (5) This section has effect subject to section 735(4) (terms of purchase enforceable in a winding up).

Authority for purchase of own shares

693 Authority for purchase of own shares

- (1) A limited company may only purchase its own shares—
- (a) by an off-market purchase, in pursuance of a contract approved in advance in accordance with section 694;
 - (b) by a market purchase, authorised in accordance with section 701.
- (2) A purchase is “off-market” if the shares either—
- (a) are purchased otherwise than on a recognised investment exchange, or
 - (b) are purchased on a recognised investment exchange but are not subject to a marketing arrangement on the exchange.
- (3) For this purpose a company’s shares are subject to a marketing arrangement on a recognised investment exchange if—
- (a) they are listed under Part 6 of the Financial Services and Markets Act 2000 (c. 8), or
 - (b) the company has been afforded facilities for dealings in the shares to take place on the exchange—
 - (i) without prior permission for individual transactions from the authority governing that investment exchange, and
 - (ii) without limit as to the time during which those facilities are to be available.

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- (4) A purchase is a “market purchase” if it is made on a recognised investment exchange and is not an off-market purchase by virtue of subsection (2)(b).
- (5) In this section “recognised investment exchange” means a recognised investment exchange (within the meaning of Part 18 of the Financial Services and Markets Act 2000) other than an overseas exchange (within the meaning of that Part).

Authority for off-market purchase

694 Authority for off-market purchase

- (1) A company may only make an off-market purchase of its own shares in pursuance of a contract approved prior to the purchase in accordance with this section.
- (2) Either—
 - (a) the terms of the contract must be authorised by a special resolution of the company before the contract is entered into, or
 - (b) the contract must provide that no shares may be purchased in pursuance of the contract until its terms have been authorised by a special resolution of the company.
- (3) The contract may be a contract, entered into by the company and relating to shares in the company, that does not amount to a contract to purchase the shares but under which the company may (subject to any conditions) become entitled or obliged to purchase the shares.
- (4) The authority conferred by a resolution under this section may be varied, revoked or from time to time renewed by a special resolution of the company.
- (5) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than 18 months after the date on which the resolution is passed.
- (6) A resolution conferring, varying, revoking or renewing authority under this section is subject to—
 - section 695 (exercise of voting rights), and
 - section 696 (disclosure of details of contract).

695 Resolution authorising off-market purchase: exercise of voting rights

- (1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 694 (authority for off-market purchase of own shares).
- (2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.
- (3) Where the resolution is proposed at a meeting of the company, it is not effective if—
 - (a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and
 - (b) the resolution would not have been passed if he had not done so.
- (4) For this purpose—

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- (a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;
- (b) any member of the company may demand a poll on that question;
- (c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

696 Resolution authorising off-market purchase: disclosure of details of contract

- (1) This section applies in relation to a resolution to confer, vary, revoke or renew authority for the purposes of section 694 (authority for off-market purchase of own shares).
- (2) A copy of the contract (if it is in writing) or a memorandum setting out its terms (if it is not) must be made available to members—
 - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
 - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
 - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
 - (ii) at the meeting itself.
- (3) A memorandum of contract terms so made available must include the names of the members holding shares to which the contract relates.
- (4) A copy of the contract so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the contract itself.
- (5) The resolution is not validly passed if the requirements of this section are not complied with

697 Variation of contract for off-market purchase

- (1) A company may only agree to a variation of a contract authorised under section 694 (authority for off-market purchase) if the variation is approved in advance in accordance with this section.
- (2) The terms of the variation must be authorised by a special resolution of the company before it is agreed to.
- (3) That authority may be varied, revoked or from time to time renewed by a special resolution of the company.
- (4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than 18 months after the date on which the resolution is passed.
- (5) A resolution conferring, varying, revoking or renewing authority under this section is subject to—
 - section 698 (exercise of voting rights), and
 - section 699 (disclosure of details of variation).

698 Resolution authorising variation: exercise of voting rights

- (1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 697 (variation of contract for off-market purchase of own shares).
- (2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.
- (3) Where the resolution is proposed at a meeting of the company, it is not effective if—
 - (a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and
 - (b) the resolution would not have been passed if he had not done so.
- (4) For this purpose—
 - (a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;
 - (b) any member of the company may demand a poll on that question;
 - (c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

699 Resolution authorising variation: disclosure of details of variation

- (1) This section applies in relation to a resolution under section 697 (variation of contract for off-market purchase of own shares).
- (2) A copy of the proposed variation (if it is in writing) or a written memorandum giving details of the proposed variation (if it is not) must be made available to members—
 - (a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
 - (b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—
 - (i) at the company's registered office for not less than 15 days ending with the date of the meeting, and
 - (ii) at the meeting itself.
- (3) There must also be made available as mentioned in subsection (2) a copy of the original contract or, as the case may be, a memorandum of its terms, together with any variations previously made.
- (4) A memorandum of the proposed variation so made available must include the names of the members holding shares to which the variation relates.
- (5) A copy of the proposed variation so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the variation itself.
- (6) The resolution is not validly passed if the requirements of this section are not complied with.

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700 Release of company's rights under contract for off-market purchase

- (1) An agreement by a company to release its rights under a contract approved under section 694 (authorisation of off-market purchase) is void unless the terms of the release agreement are approved in advance in accordance with this section.
- (2) The terms of the proposed agreement must be authorised by a special resolution of the company before the agreement is entered into.
- (3) That authority may be varied, revoked or from time to time renewed by a special resolution of the company.
- (4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than 18 months after the date on which the resolution is passed.
- (5) The provisions of—
 - section 698 (exercise of voting rights), and
 - section 699 (disclosure of details of variation),apply to a resolution authorising a proposed release agreement as they apply to a resolution authorising a proposed variation.

Authority for market purchase

701 Authority for market purchase

- (1) A company may only make a market purchase of its own shares if the purchase has first been authorised by a resolution of the company.
- (2) That authority—
 - (a) may be general or limited to the purchase of shares of a particular class or description, and
 - (b) may be unconditional or subject to conditions.
- (3) The authority must—
 - (a) specify the maximum number of shares authorised to be acquired, and
 - (b) determine both the maximum and minimum prices that may be paid for the shares.
- (4) The authority may be varied, revoked or from time to time renewed by a resolution of the company.
- (5) A resolution conferring, varying or renewing authority must specify a date on which it is to expire, which must not be later than 18 months after the date on which the resolution is passed.
- (6) A company may make a purchase of its own shares after the expiry of the time limit specified if—
 - (a) the contract of purchase was concluded before the authority expired, and
 - (b) the terms of the authority permitted the company to make a contract of purchase that would or might be executed wholly or partly after its expiration.
- (7) A resolution to confer or vary authority under this section may determine either or both the maximum and minimum price for purchase by—

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- (a) specifying a particular sum, or
 - (b) providing a basis or formula for calculating the amount of the price (but without reference to any person's discretion or opinion).
- (8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

Supplementary provisions

702 Copy of contract or memorandum to be available for inspection

- (1) This section applies where a company has entered into—
- (a) a contract approved under section 694 (authorisation of contract for off-market purchase), or
 - (b) a contract for a purchase authorised under section 701 (authorisation of market purchase).
- (2) The company must keep available for inspection—
- (a) a copy of the contract, or
 - (b) if the contract is not in writing, a written memorandum setting out its terms.
- (3) The copy or memorandum must be kept available for inspection from the conclusion of the contract until the end of the period of ten years beginning with—
- (a) the date on which the purchase of all the shares in pursuance of the contract is completed, or
 - (b) the date on which the contract otherwise determines.
- (4) The copy or memorandum must be kept available for inspection—
- (a) at the company's registered office, or
 - (b) at a place specified in regulations under section 1136.
- (5) The company must give notice to the registrar—
- (a) of the place at which the copy or memorandum is kept available for inspection, and
 - (b) of any change in that place,
- unless it has at all times been kept at the company's registered office.
- (6) Every copy or memorandum required to be kept under this section must be kept open to inspection without charge—
- (a) by any member of the company, and
 - (b) in the case of a public company, by any other person.
- (7) The provisions of this section apply to a variation of a contract as they apply to the original contract.

703 Enforcement of right to inspect copy or memorandum

- (1) If default is made in complying with section 702(2), (3) or (4) or default is made for 14 days in complying with section 702(5), or an inspection required under section 702(6) is refused, an offence is committed by—
- (a) the company, and

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(b) every officer of the company who is in default.

- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.
- (3) In the case of refusal of an inspection required under section 702(6) the court may by order compel an immediate inspection.

704 No assignment of company’s right to purchase own shares

The rights of a company under a contract authorised under—

- (a) section 694 (authority for off-market purchase), or
- (b) section 701 (authority for market purchase)

are not capable of being assigned.

705 Payments apart from purchase price to be made out of distributable profits

- (1) A payment made by a company in consideration of—
- (a) acquiring any right with respect to the purchase of its own shares in pursuance of a contingent purchase contract approved under section 694 (authorisation of off-market purchase),
 - (b) the variation of any contract approved under that section, or
 - (c) the release of any of the company’s obligations with respect to the purchase of any of its own shares under a contract—
 - (i) approved under section 694, or
 - (ii) authorised under section 701 (authorisation of market purchase),
- must be made out of the company’s distributable profits.
- (2) If this requirement is not met in relation to a contract, then—
- (a) in a case within subsection (1)(a), no purchase by the company of its own shares in pursuance of that contract may be made under this Chapter;
 - (b) in a case within subsection (1)(b), no such purchase following the variation may be made under this Chapter;
 - (c) in a case within subsection (1)(c), the purported release is void.

706 Treatment of shares purchased

Where a limited company makes a purchase of its own shares in accordance with this Chapter, then—

- (a) if section 724 (treasury shares) applies, the shares may be held and dealt with in accordance with Chapter 6;
- (b) if that section does not apply—
 - (i) the shares are treated as cancelled, and
 - (ii) the amount of the company’s issued share capital is diminished accordingly by the nominal value of the shares cancelled.

707 Return to registrar of purchase of own shares

- (1) Where a company purchases shares under this Chapter, it must deliver a return to the registrar within the period of 28 days beginning with the date on which the shares are delivered to it.
- (2) The return must distinguish—
 - (a) shares in relation to which section 724 (treasury shares) applies and shares in relation to which that section does not apply, and
 - (b) shares in relation to which that section applies—
 - (i) that are cancelled forthwith (under section 729 (cancellation of treasury shares)), and
 - (ii) that are not so cancelled.
- (3) The return must state, with respect to shares of each class purchased—
 - (a) the number and nominal value of the shares, and
 - (b) the date on which they were delivered to the company.
- (4) In the case of a public company the return must also state—
 - (a) the aggregate amount paid by the company for the shares, and
 - (b) the maximum and minimum prices paid in respect of shares of each class purchased.
- (5) Particulars of shares delivered to the company on different dates and under different contracts may be included in a single return.

In such a case the amount required to be stated under subsection (4)(a) is the aggregate amount paid by the company for all the shares to which the return relates.
- (6) If default is made in complying with this section an offence is committed by every officer of the company who is in default.
- (7) 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 and, for continued contravention, a daily default fine not exceeding one-tenth of the statutory maximum.

708 Notice to registrar of cancellation of shares

- (1) If on the purchase by a company of any of its own shares in accordance with this Part—
 - (a) section 724 (treasury shares) does not apply (so that the shares are treated as cancelled), or
 - (b) that section applies but the shares are cancelled forthwith (under section 729 (cancellation of treasury shares)),the company must give notice of cancellation to the registrar, within the period of 28 days beginning with the date on which the shares are delivered to it, specifying the shares cancelled.
- (2) The notice must be accompanied by a statement of capital.
- (3) The statement of capital must state with respect to the company's share capital immediately following the cancellation—
 - (a) the total number of shares of the company,

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- (b) the aggregate nominal value of those shares,
 - (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, and
 - (d) the amount paid up and the amount (if any) unpaid on each share (whether on account of the nominal value of the share or by way of premium).
- (4) 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.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.