



Companies Act 2006

2006 CHAPTER 46

PART 17

A COMPANY'S SHARE CAPITAL

CHAPTER 3

ALLOTMENT OF EQUITY SECURITIES: EXISTING SHAREHOLDERS' RIGHT OF PRE-EMPTION

Exclusion of right of pre-emption

568 Exclusion of pre-emption right: articles conferring corresponding right

- (1) The provisions of this section apply where, in a case in which section 561 (existing shareholders' right of pre-emption) would otherwise apply—
 - (a) a company's articles contain provision (“pre-emption provision”) prohibiting the company from allotting ordinary shares of a particular class unless it has complied with the condition that it makes such an offer as is described in section 561(1) to each person who holds ordinary shares of that class, and
 - (b) in accordance with that provision—
 - (i) the company makes an offer to allot shares to such a holder, and
 - (ii) he or anyone in whose favour he has renounced his right to their allotment accepts the offer.
- (2) In that case, section 561 does not apply to the allotment of those shares and the company may allot them accordingly.
- (3) The provisions of section 562 (communication of pre-emption offers to shareholders) apply in relation to offers made in pursuance of the pre-emption provision of the company's articles.

This is subject to section 567 (exclusion of requirements by private companies).

Changes to legislation: *There are currently no known outstanding effects for the Companies Act 2006, Section 568. (See end of Document for details)*

- (4) If there is a contravention of the pre-emption provision of the company's articles, the company, and every officer of it who knowingly authorised or permitted the contravention, are jointly and severally liable to compensate any person to whom an offer should have been made under the provision for any loss, damage, costs or expenses which the person has sustained or incurred by reason of the contravention.
- (5) No proceedings to recover any such loss, damage, costs or expenses may be commenced after the expiration of two years—
- (a) from the delivery to the registrar of companies of the return of allotment, or
 - (b) where equity securities other than shares are granted, from the date of the grant.

Changes to legislation:

There are currently no known outstanding effects for the Companies Act 2006, Section 568.