



# Companies Act 2006

## 2006 CHAPTER 46

### PART 38

#### COMPANIES: INTERPRETATION

##### *Meaning of “UK-registered company”*

#### **1158 Meaning of “UK-registered company”**

In the Companies Acts “UK-registered company” means a company registered under this Act.

The expression does not include an overseas company that has registered particulars under section 1046.

##### *Meaning of “subsidiary” and related expressions*

#### **1159 Meaning of “subsidiary” etc**

- (1) A company is a “subsidiary” of another company, its “holding company”, if that other company—
  - (a) holds a majority of the voting rights in it, or
  - (b) is a member of it and has the right to appoint or remove a majority of its board of directors, or
  - (c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,or if it is a subsidiary of a company that is itself a subsidiary of that other company.
- (2) A company is a “wholly-owned subsidiary” of another company if it has no members except that other and that other’s wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.
- (3) Schedule 6 contains provisions explaining expressions used in this section and otherwise supplementing this section.

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- (4) In this section and that Schedule “company” includes any body corporate.

### **1160 Meaning of “subsidiary” etc: power to amend**

- (1) The Secretary of State may by regulations amend the provisions of section 1159 (meaning of “subsidiary” etc) and Schedule 6 (meaning of “subsidiary” etc: supplementary provisions) so as to alter the meaning of the expressions “subsidiary”, “holding company” or “wholly-owned subsidiary”.
- (2) Regulations under this section are subject to negative resolution procedure.
- (3) Any amendment made by regulations under this section does not apply for the purposes of enactments outside the Companies Acts unless the regulations so provide.
- (4) So much of section 23(3) of the Interpretation Act 1978 (c. 30) as applies section 17(2) (a) of that Act (effect of repeal and re-enactment) to deeds, instruments and documents other than enactments does not apply in relation to any repeal and re-enactment effected by regulations under this section.

### *Meaning of “undertaking” and related expressions*

### **1161 Meaning of “undertaking” and related expressions**

- (1) In the Companies Acts “undertaking” means—
- (a) a body corporate or partnership, or
  - (b) an unincorporated association carrying on a trade or business, with or without a view to profit.
- (2) In the Companies Acts references to shares—
- (a) in relation to an undertaking with capital but no share capital, are to rights to share in the capital of the undertaking; and
  - (b) in relation to an undertaking without capital, are to interests—
    - (i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking, or
    - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.
- (3) Other expressions appropriate to companies shall be construed, in relation to an undertaking which is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

This is subject to provision in any specific context providing for the translation of such expressions.

- (4) References in the Companies Acts to “fellow subsidiary undertakings” are to undertakings which are subsidiary undertakings of the same parent undertaking but are not parent undertakings or subsidiary undertakings of each other.
- (5) In the Companies Acts “group undertaking”, in relation to an undertaking, means an undertaking which is—
- (a) a parent undertaking or subsidiary undertaking of that undertaking, or
  - (b) a subsidiary undertaking of any parent undertaking of that undertaking.

## **1162 Parent and subsidiary undertakings**

- (1) This section (together with Schedule 7) defines “parent undertaking” and “subsidiary undertaking” for the purposes of the Companies Acts.
- (2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—
  - (a) it holds a majority of the voting rights in the undertaking, or
  - (b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or
  - (c) it has the right to exercise a dominant influence over the undertaking—
    - (i) by virtue of provisions contained in the undertaking’s articles, or
    - (ii) by virtue of a control contract, or
  - (d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.
- (3) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking—
  - (a) if any of its subsidiary undertakings is a member of that undertaking, or
  - (b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.
- (4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—
  - (a) it has the power to exercise, or actually exercises, dominant influence or control over it, or
  - (b) it and the subsidiary undertaking are managed on a unified basis.
- (5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of its subsidiary undertakings are, or are to be treated as, parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.
- (6) Schedule 7 contains provisions explaining expressions used in this section and otherwise supplementing this section.
- (7) In this section and that Schedule references to shares, in relation to an undertaking, are to allotted shares.

### *Other definitions*

## **1163 “Non-cash asset”**

- (1) In the Companies Acts “non-cash asset” means any property or interest in property, other than cash.  

For this purpose “cash” includes foreign currency.
- (2) A reference to the transfer or acquisition of a non-cash asset includes—
  - (a) the creation or extinction of an estate or interest in, or a right over, any property, and

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- (b) the discharge of a liability of any person, other than a liability for a liquidated sum.

#### **1164 Meaning of “banking company” and “banking group”**

- (1) This section defines “banking company” and “banking group” for the purposes of the Companies Acts.
- (2) “Banking company” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, other than—
  - (a) a person who is not a company, and
  - (b) a person who has such permission only for the purpose of carrying on another regulated activity in accordance with permission under that Part.
- (3) The definition in subsection (2) must be read with section 22 of that Act, any relevant order under that section and Schedule 2 to that Act.
- (4) References to a banking group are to a group where the parent company is a banking company or where—
  - (a) the parent company’s principal subsidiary undertakings are wholly or mainly credit institutions, and
  - (b) the parent company does not itself carry on any material business apart from the acquisition, management and disposal of interests in subsidiary undertakings.“Group” here means a parent undertaking and its subsidiary undertakings.
- (5) For the purposes of subsection (4)—
  - (a) a parent company’s principal subsidiary undertakings are the subsidiary undertakings of the company whose results or financial position would principally affect the figures shown in the group accounts, and
  - (b) the management of interests in subsidiary undertakings includes the provision of services to such undertakings.

#### **1165 Meaning of “insurance company” and related expressions**

- (1) This section defines “insurance company”, “authorised insurance company”, “insurance group” and “insurance market activity” for the purposes of the Companies Acts.
- (2) An “authorised insurance company” means a person (whether incorporated or not) who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to effect or carry out contracts of insurance.
- (3) An “insurance company” means—
  - (a) an authorised insurance company, or
  - (b) any other person (whether incorporated or not) who—
    - (i) carries on insurance market activity, or
    - (ii) may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle.
- (4) Neither expression includes a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40).

- (5) References to an insurance group are to a group where the parent company is an insurance company or where—
- (a) the parent company’s principal subsidiary undertakings are wholly or mainly insurance companies, and
  - (b) the parent company does not itself carry on any material business apart from the acquisition, management and disposal of interests in subsidiary undertakings.
- “Group” here means a parent undertaking and its subsidiary undertakings.
- (6) For the purposes of subsection (5)—
- (a) a parent company’s principal subsidiary undertakings are the subsidiary undertakings of the company whose results or financial position would principally affect the figures shown in the group accounts, and
  - (b) the management of interests in subsidiary undertakings includes the provision of services to such undertakings.
- (7) “Insurance market activity” has the meaning given in section 316(3) of the Financial Services and Markets Act 2000.
- (8) References in this section to contracts of insurance and to the effecting or carrying out of such contracts must be read with section 22 of that Act, any relevant order under that section and Schedule 2 to that Act.

#### **1166 “Employees' share scheme”**

For the purposes of the Companies Acts an employees' share scheme is a scheme for encouraging or facilitating the holding of shares in or debentures of a company by or for the benefit of—

- (a) the bona fide employees or former employees of—
  - (i) the company,
  - (ii) any subsidiary of the company, or
  - (iii) the company’s holding company or any subsidiary of the company’s holding company, or
- (b) the spouses, civil partners, surviving spouses, surviving civil partners, or minor children or step-children of such employees or former employees.

#### **1167 Meaning of “prescribed”**

In the Companies Acts “prescribed” means prescribed (by order or by regulations) by the Secretary of State.

#### **1168 Hard copy and electronic form and related expressions**

- (1) The following provisions apply for the purposes of the Companies Acts.
- (2) A document or information is sent or supplied in hard copy form if it is sent or supplied in a paper copy or similar form capable of being read.
- References to hard copy have a corresponding meaning.
- (3) A document or information is sent or supplied in electronic form if it is sent or supplied—

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- (a) by electronic means (for example, by e-mail or fax), or
- (b) by any other means while in an electronic form (for example, sending a disk by post).

References to electronic copy have a corresponding meaning.

- (4) A document or information is sent or supplied by electronic means if it is—
- (a) sent initially and received at its destination by means of electronic equipment for the processing (which expression includes digital compression) or storage of data, and
  - (b) entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

References to electronic means have a corresponding meaning.

- (5) A document or information authorised or required to be sent or supplied in electronic form must be sent or supplied in a form, and by a means, that the sender or supplier reasonably considers will enable the recipient—
- (a) to read it, and
  - (b) to retain a copy of it.
- (6) For the purposes of this section, a document or information can be read only if—
- (a) it can be read with the naked eye, or
  - (b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.
- (7) The provisions of this section apply whether the provision of the Companies Acts in question uses the words “sent” or “supplied” or uses other words (such as “deliver”, “provide”, “produce” or, in the case of a notice, “give”) to refer to the sending or supplying of a document or information.

## **1169 Dormant companies**

- (1) For the purposes of the Companies Acts a company is “dormant” during any period in which it has no significant accounting transaction.
- (2) A “significant accounting transaction” means a transaction that is required by section 386 to be entered in the company’s accounting records.
- (3) In determining whether or when a company is dormant, there shall be disregarded—
- (a) any transaction arising from the taking of shares in the company by a subscriber to the memorandum as a result of an undertaking of his in connection with the formation of the company;
  - (b) any transaction consisting of the payment of—
    - (i) a fee to the registrar on a change of the company’s name,
    - (ii) a fee to the registrar on the re-registration of the company,
    - (iii) a penalty under section 453 (penalty for failure to file accounts), or
    - (iv) a fee to the registrar for the registration of an annual return.
- (4) Any reference in the Companies Acts to a body corporate other than a company being dormant has a corresponding meaning.

## **1170 Meaning of “EEA State” and related expressions**

In the Companies Acts—

“EEA State” means a state which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time);

“EEA company” and “EEA undertaking” mean a company or undertaking governed by the law of an EEA State.

## **1171 The former Companies Acts**

In the Companies Acts—

“the former Companies Acts” means—

- (a) the Joint Stock Companies Acts, the Companies Act 1862 (c. 89), the Companies (Consolidation) Act 1908 (c. 69), the Companies Act 1929 (c. 23), the Companies Act (Northern Ireland) 1932 (c. 7 (N.I.)), the Companies Acts 1948 to 1983, the Companies Act (Northern Ireland) 1960 (c. 22 (N.I.)), the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) and the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9)), and
- (b) the provisions of the Companies Act 1985 (c. 6) and the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9) that are no longer in force;

“the Joint Stock Companies Acts” means the Joint Stock Companies Act 1856 (c. 47), the Joint Stock Companies Acts 1856, 1857 (20 & 21 Vict. c. 14), the Joint Stock Banking Companies Act 1857 (c. 49), and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability (1858 c. 91), but does not include the Joint Stock Companies Act 1844 (c. 110).

### *General*

## **1172 References to requirements of this Act**

References in the company law provisions of this Act to the requirements of this Act include the requirements of regulations and orders made under it.

## **1173 Minor definitions: general**

(1) In the Companies Acts—

“body corporate” and “corporation” include a body incorporated outside the United Kingdom, but do not include—

- (a) a corporation sole, or
- (b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

“credit institution” means a credit institution as defined in Article 4.1(a) of Directive 2006/48/EC of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions;

“financial institution” means a financial institution within the meaning of Article 1.1 of the Council Directive on the obligations of branches established in a Member State of credit and financial institutions having their head offices

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outside that Member State regarding the publication of annual accounting documents (the Bank Branches Directive, [89/117/EEC](#));

“firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

“the Gazette” means—

- (a) as respects companies registered in England and Wales, the London Gazette,
- (b) as respects companies registered in Scotland, the Edinburgh Gazette, and
- (c) as respects companies registered in Northern Ireland, the Belfast Gazette;

“hire-purchase agreement” has the same meaning as in the Consumer Credit Act [1974 \(c. 39\)](#);

“officer”, in relation to a body corporate, includes a director, manager or secretary;

“parent company” means a company that is a parent undertaking (see section 1162 and Schedule 7);

“regulated activity” has the meaning given in section 22 of the Financial Services and Markets Act [2000 \(c. 8\)](#);

“regulated market” has the same meaning as in Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments (see Article 4.1(14));

“working day”, in relation to a company, means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act [1971 \(c. 80\)](#) in the part of the United Kingdom where the company is registered.

- (2) In relation to an EEA State that has not implemented Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments, the following definition of “regulated market” has effect in place of that in subsection (1)

— “regulated market” has the same meaning as it has in Council Directive [93/22/EEC](#) on investment services in the securities field.

## **1174 Index of defined expressions**

Schedule 8 contains an index of provisions defining or otherwise explaining expressions used in the Companies Acts.