

Guidance Note: Redeemable Shares Out of Profits Or Proceeds of a Fresh Issue

There are two types of situations in which a company can buy its own shares:

- Purchase of own shares
- Redemption of redeemable shares

There are very strict rules that apply to the purchase or redemption of shares.

This document deals with redeemable shares; for an own share purchase please see "Own Share Purchase – Guidance Notes" or "Own SP Out of Capital – Guidance Notes".

If a company has authority to do so, a company can issue shares which are to be redeemed or liable to be redeemed by the company or the holder of the shares. Redeemable shares have the right to be bought back (redeemed) by the shareholder temporary membership in the company. Redeemable shares have the right to be bought back (redeemed) by the holder at a future date.

It must be noted that a company can issue shares as redeemable shares; it must also have non-redeemable shares at the time of the redemption.

Upon redemption, the redeemable shares are cancelled and the amount of the company's share capital is reduced.

A company can redeem (purchase) its own shares in the following ways:

- out of profits;
- from the proceeds of a fresh issue of shares;
- out of capital.

Please note that both private and public companies can purchase their own shares or redeem redeemable shares, but public companies can reduce their capital in order to do so.

This document deals with the procedures that must be followed by private limited companies in order to redeem redeemable shares out of profits. For the procedures that must be followed by private limited companies in order to redeem redeemable shares out of capital please see "Own Share Purchase – Guidance Notes".

In order for a private limited company to redeem its own shares out of profits or the proceeds of a fresh issue of shares, the following conditions must be met:

Pre-conditions required for the redemption of shares out of profits or the proceeds of a fresh issue of shares

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- The redemption of shares may be authorised by the Memorandum of Association. The Memorandum of Association may allow the company to issue shares which are to be redeemed at the option of the holder, and the directors may determine the terms and conditions of redemption of any such shares. Table A allows the company to issue shares which are to be redeemed, or are liable to be redeemed at the option of the holder, but the terms of redemption must be specified in the Articles. If the Articles do not allow the company to issue shares to be redeemed, or are liable to be redeemed, the Articles must be amended by special resolution.;
- The shares being redeemed must be fully paid; and
- As a result of the redemption, the company must continue to have shares in issue that are non-redeemable.

and or prohibited by the Articles of Association. The Memorandum of Association may allow the company to issue shares which are to be redeemed, or are liable to be redeemed at the option of the holder, and the directors may determine the terms and conditions of redemption of any such shares. Table A allows the company to issue shares which are to be redeemed, or are liable to be redeemed at the option of the holder, but the terms of redemption must be specified in the Articles. If the Articles do not allow the company to issue shares to be redeemed, or are liable to be redeemed, the Articles must be amended by special resolution.;

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Financing of the redemption

- The shares may be redeemed out of the available distributable profits or out of the proceeds of a fresh/new issue of shares.
- Any premium payable on the redemption of shares must be paid out of the available distributable profits of the company.
- However, if the shares were issued at a premium, any premium payable on the redemption of the shares may be paid out of the proceeds of a fresh issue of shares for the purpose of financing the redemption.
- The amount of premium payable on the redemption of shares shall be the lesser of either (i) the aggregate of the premium payable on the shares redeemed, or (ii) the amount of the share premium account (including any amount brought forward from previous years) on the new shares).
- The amount of the corresponding sum corresponding (or the amount of any premium payable on the new shares).

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If the above conditions are satisfied, the company must be taken:

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STEP 1 – Terms and Manner of Redemption

- **The board may determine the terms and manner of redemption of shares**

The board may determine the terms and manner of redemption of shares if they are authorised to do so by the Memorandum of Association or by a resolution of the company.

must be taken:

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The Model Articles introduced by the Companies Act 2006 allow the directors to do so. Each company must check its Memorandum of Association and company's articles.

Terms and manner of redemption of shares

If the directors do not have this authority through an ordinary resolution of the company, they can obtain authority through a special resolution of the company's articles.

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The terms, conditions and manner of redemption of shares must be determined before they are all

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See "Redemption Out of Profit" for the required wording for a board meeting where the board determine the terms, conditions and manner of redemption of shares.

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STEP 2 – Statutory Form

- **The company must complete Form SH02 (Notice of Consolidation, Sub-Division, or Re-conversion of Stock of Companies within one month of consolidation, sub-division, or re-conversion into shares"). Failure to do so is an offence and the directors of the company in default is liable to a fine if found guilty.**
- The shares will be consolidated, sub-divided or re-converted into shares) must be filed with Companies House within one month of the redemption (see Form SH02 (Notice of Consolidation, Sub-Division, or Re-conversion of Stock of Companies within one month of consolidation, sub-division, or re-conversion into shares"). Failure to do so is an offence and the directors of the company in default is liable to a fine if found guilty.

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A covering letter to be delivered to Companies House together with the Form can be found at "Redemption of shares" on the Companies House website.

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STEP 3 – Miscellaneous

The amount of the company's net assets is diminished by the nominal value of the shares redeemed.

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Please note that the procedures for the redemption of shares must be followed carefully. Failure to follow the correct procedures could result in the purported redemption being invalid and any shareholders considering participating in such a redemption should seek specialist legal and tax advice.

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