

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

This document deals with redemption of shares; for an own share purchase please click on “Own Share Purchase – Guidance Notes” or “Own SP Out of Capital – Guidance Notes.”

If it has authority to do so, a company may issue shares which are to be redeemed or liable to be redeemed. Redeemable shares. Redeemable shares are shares where the shareholder temporary membership in the company is subject to the shares having the rights to be bought back (redeemed) at a future date.

It must be noted that a company may 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 back) its shares in the following ways:

- out of profits;
- from the proceeds of a new issue of shares; or
- 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 redemption of shares by private limited companies in order to redeem shares in itself out of capital.

In order for a private limited company to redeem shares in itself out of capital a number of conditions must be met.

Pre-conditions required for the redemption of shares out of capital

- The redemption of shares must not be prohibited by the Articles of Association. The Memorandum of Association must contain no such restriction.
- The shares being redeemed must be fully paid; and
- As a result of the redemption the company must continue to have shares in issue throughout the redemption process.

Financing of the redemption of shares out of capital

If the company has distributed its profits for the purpose of the redemption of shares, the redemption of shares must be funded by the proceeds of a new issue of shares.

for the purchase or redemption of shares.

the shares; for an own share purchase please click on “Own Share Purchase – Guidance Notes” or “Own SP Out of Capital – Guidance Notes.”

issue shares which are to be redeemed or liable to be redeemed by the company or the holder of the shares. Redeemable shares are shares where the shareholder temporary membership in the company is subject to the shares having the rights to be bought back (redeemed) at a future date.

shares as redeemable shares; it must also have non-redeemable shares at the time of the redemption.

is cancelled and the amount of the company's share capital is reduced.

:

s; or

n purchase their own shares or redeem redeemable shares, but public companies can reduce their capital in order to do so.

be followed by private limited companies in order to redeem shares in itself out of capital.

ares in itself out of capital a number of conditions must be met.

es out of capital

ed or prohibited by the Articles of Association. The Memorandum of Association must contain no such restriction.

ust be fully paid; and
the company must continue to have shares in issue throughout the redemption process.

l

eds of a new issue of shares must be funded by the proceeds of a new issue of shares.

the distributable profits or p
redemption before capital ca
“permissible capital payment”

Accounts for the company pre
Directors’ Statement are req
capital payment. These need

If the above conditions are sat

STEP 1 – Board Resolutions

- **The board must prop**

The board of directors is respo
decision to redeem own share
“Redemption Out of Capital –
resolutions.

Please note that if the shares a
director must declare his intere
decision depending on the Cor

STEP 2 – Directors’ Stateme

- **The directors must m
by an auditor’s report**

The Directors’ Statement is
document “Redemption Out o
wording. A Directors’ Stater
containing the following inform

- the amount of the perm
- that, having made full
they have formed the o
- (a) as regards its initial
payment out of cap
grounds on which t
debts, and
- (b) as regards its prosp
having regard to:
 - (i) their intentions
business during
 - (ii) the amount and
view be availab

it first be used to fund the
ce of capital required is the
d before proceeding.

3 months up to the date of the
to determine the permissible
be reliable for the purpose.

must be taken:

shares.

business of the company, so the
by the board. The document
ins the necessary board

ector of the company, that
tted to vote on the board
iation.

prescribed form supported

ivency of the company. The
statement” contains the required
ade by each of the directors

and

nd prospects of the company,

llowing the date on which the
de, that there will be no
be found unable to pay its

ately following that date, that

gement of the Company’s

l resources that will in their
g that year,

the Company will be able to pay its debts as they fall due throughout that year.

on business as a going concern (and will be able to pay its debts as they fall due)

An auditors' report must be a statement and addressed to the directors stating that:

Statement and addressed to

- he has inquired into the
- the amount specified in the shares in question sections 710 to 712 of
- he is not aware of any directors in their statement

ers,
permissible capital payment for determined in accordance with , and
the opinion expressed by the all the circumstances.

If the Directors' Statement is without having reasonable grounds for the opinions expressed, a director who is in default will be liable to imprisonment of up to two years or a fine or both. Because of the penalties, it is advisable to seek expert advice.

s without having reasonable director who is in default will be imprisonment of up to two years or a fine or both. Because of the penalties, it is advisable to seek expert advice.

A copy of the Directors' Statement must be made available to members.

port must be made available to

If the special resolution to approve the payment and the auditor's report must be sent at or before the meeting (see Step 3 below). The resolution must be passed within seven days of the meeting.

capital is to be proposed as a resolution and the auditor's report must be sent to the members at the meeting. The resolution must be passed within seven days of the meeting or it will not be valid.

If the special resolution is to be passed, a copy of the Directors' Statement and the auditor's report must be made available to members.

then the copy of the Directors' Statement and the auditor's report must be made available to members for inspection at the meeting.

STEP 3 – Shareholder Approval

- **The payment out of capital must be approved by the shareholders.**

d by the shareholders.

On the date of or within seven days of the meeting, a special resolution must be passed in order to approve the payment.

Statement, a special resolution

The approval may be by way of a written resolution (for private companies only) or by a resolution passed at a shareholders' meeting.

ivate companies only) or by a

In either case, the special resolution must be passed by a majority of not less than 75% of the total votes entitled, vote on the special resolution on the date when the resolution is circulated.

y shareholders who represent shareholders who, being so entitled, vote on the special resolution on a show of hands or would be entitled to vote on the date when the resolution is circulated.

If a written resolution is used, a copy of the resolution must be sent to each shareholder who is entitled to vote on the resolution.

s which are to be redeemed is a copy of the written resolution.

If a meeting is held, the special resolution must be passed because the payment out of capital is not a dividend.

ective if any member holding shares which are to be redeemed is entitled to vote on the special resolution.

See the document “Redemption of Shares” which can be used as a written resolution of the Directors’ Minutes” which can be used to

Copies of the Directors’ Statement of Capital must be available for inspection for 5 weeks from the date of the resolution regarding the use of capital.

STEP 4 – Requirements following the passing of shares

- **The company, within 15 days of the passing of the resolution, must send a copy of it to the Registrar of Companies and the company must also publish notices in the London Gazette and a national newspaper.**

Within 15 days after the special resolution has been passed, the company must deliver to the Registrar of Companies a copy of the resolution.

Within the week following the passing of the resolution regarding the use of capital, the company must publish the resolution in the Gazette and must either cause a similar notice to be published in a national newspaper or must give written notice to the Registrar of Companies. The wording for the notice can be found in “Redemption of Shares”.

Copies of the Directors’ Statement of Capital must be sent to the Registrar of Companies not later than the date of the resolution.

A covering letter to be delivered to the Registrar of Companies together with a copy of the special resolution can be found in “Redemption of Shares Out of Capital – letter to Companies House”.

STEP 5 – Redemption of Shares

Once all of the above conditions have been met, then the company can use the permissible capital for redemption. Redemption can take place no earlier than 5 weeks and no later than 12 months after approval of the special resolution regarding the use of capital.

If the permissible capital payable on redemption is less than the nominal amount of the shares to be redeemed, the amount of the shortfall must be paid out of the redemption reserve.

If the permissible capital payable on redemption is more than the nominal amount of the shares to be redeemed, then (i) the amount of the excess must be paid into the redemption reserve, share premium account or fully paid share capital account and (ii) any amount representing unrealised profits of the company or any amount standing to the credit of any reserve (including the revaluation reserve maintained by the company) must be reduced by the balance of the excess. The amount by which the permissible capital exceeds the nominal amount of the shares to be redeemed must be applied by the company in making a payment out of capital the

Resolution” which can be used as a written resolution of the Directors’ Minutes” which can be used to

report must be available for inspection for 5 weeks from the date of the resolution regarding the use of capital.

of shares

resolution, must send a copy of it to the Registrar of Companies and the company must also publish notices in the London Gazette and a national newspaper.

Within 15 days after the special resolution has been passed, the company must deliver to the Registrar of Companies a copy of the resolution.

Within the week following the passing of the resolution regarding the use of capital, the company must publish the resolution in the Gazette and must either cause a similar notice to be published in a national newspaper or must give written notice to the Registrar of Companies. The wording for the notice can be found in “Redemption of Shares”.

Copies of the Directors’ Statement of Capital must be sent to the Registrar of Companies not later than the date of the resolution.

A covering letter to be delivered to the Registrar of Companies together with a copy of the special resolution can be found in “Redemption of Shares Out of Capital – letter to Companies House”.

Once all of the above conditions have been met, then the company can use the permissible capital for redemption. Redemption can take place no earlier than 5 weeks and no later than 12 months after approval of the special resolution regarding the use of capital.

If the permissible capital payable on redemption is less than the nominal amount of the shares to be redeemed, the amount of the shortfall must be paid out of the redemption reserve.

If the permissible capital payable on redemption is more than the nominal amount of the shares to be redeemed, then (i) the amount of the excess must be paid into the redemption reserve, share premium account or fully paid share capital account and (ii) any amount representing unrealised profits of the company or any amount standing to the credit of any reserve (including the revaluation reserve maintained by the company) must be reduced by the balance of the excess. The amount by which the permissible capital exceeds the nominal amount of the shares to be redeemed must be applied by the company in making a payment out of capital the

permissible capital payment
proceeds.

of that payment and those

STEP 6 – Statutory Form

- **The company must complete Form:**

- The shares will be consolidated, sub-divided or re-converted into shares) must be filed with the Companies within one month of the redemption (see Form SH02 (Notice of consolidation, sub-division, redemption of shares or re-conversion of stock 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.

A covering letter to be delivered together with the Form can be found at “Redemption Out of Capital” Companies House”.

Please note that the procedure for redemption of shares are complex and must be followed carefully. Failure to follow the correct procedures could result in the company and any shareholders being liable. It is recommended that you seek specialist legal and tax advice.