

Supplemental and additional provisions as regards allotments

70. (1) Shares which a company has offered to allot to a holder of shares in the company may be allotted to that holder or anyone in whose favour that holder has renounced his or her right to their allotment without contravening section 69 (6)(b).

(2) Notwithstanding that any authorisation conferred by a resolution or the constitution such as is mentioned in section 69 (1) has expired, the directors of a company may allot shares in pursuance of an offer or agreement previously made by the company, if that authorisation enabled the company to make an offer or agreement which would or might require shares to be allotted after the authorisation's expiry.

(3) For the purposes of section 69 and this section—

(a) “allot” includes “agreement to allot” (other than an agreement made subject to the passing of an ordinary or special resolution);

(b) “shares” includes a right to subscribe for shares or to convert securities into shares,

and with the effect that—

(i) in the case of paragraph (a), if an agreement to allot shares is entered into in compliance with section 69, subsections (3), (4) and (6) of that section shall not apply to an allotment of shares pursuant to that agreement; and

(ii) in the case of paragraph (b), if a right to subscribe for shares, or to convert securities into shares, is granted in compliance with section 69, subsections (3), (4) and (6) of that section shall not apply to an allotment of shares pursuant to the exercise of that right.

(4) References in section 69 and this section (however expressed) to the holder of shares or the holder of shares of any class shall be read as including references to any person who held shares or, as the case may be, shares of that class on any day within the period of 28 days ending with the day immediately preceding the date of the offer which is specified by the directors of the company concerned as being the record date for the purposes of the offer.

(5) A resolution of a company to give, vary, revoke or renew an authority for the purposes of section 69 (1) may, notwithstanding that it alters the company's constitution, be an ordinary resolution.

(6) Where a company allots shares, the shares shall be taken, for the purposes of this Act, to be allotted when a person acquires the unconditional right to be included in the company's register of members in respect of those shares.

(7) Where a company allots shares, it shall, within 30 days after the date of allotment, deliver particulars of the allotment in the prescribed form to the Registrar.

(8) If a company fails to comply with subsection (7), the company and any officer of it who is in default shall be guilty of a category 4 offence.

(9) Nothing in section 69 or this section shall affect the validity of any allotment of shares.

(10) Where there is a contravention of section 69 (6), the company and every officer of the company who knowingly authorised or permitted the contravention, shall be jointly and severally liable to compensate any person to whom an offer should have been made under section 69 (6) for any loss, damage, costs or expenses which that person has sustained or incurred by reason of the contravention.

(11) No proceedings to recover any such loss, damage, costs or expenses shall be commenced after the expiration of 2 years after the date of the delivery to the Registrar of the return of allotments in question or, where shares are agreed to be allotted, the agreement.

(12) If, before the commencement of section 69, the directors of a company have been granted authority, pursuant to section 20 of the Act of 1983, to allot relevant securities (within the meaning of that section 20) and that authority is in force immediately before that commencement—

(a) neither section 69 nor this section shall apply to the allotment, after that commencement, of relevant securities by the directors pursuant to that authority (which authority shall, in accordance with its terms, be taken to remain in force); and

(b) section 20 (other than subsections (4) and (9) thereof), and sections 23 and 24, of the Act of 1983 shall apply to that authority and any allotment of relevant securities on foot thereof,

but, on the expiry of that authority, section 69 and this section shall apply to any allotment thereafter of shares in the company (or the grant of any right to subscribe for shares in the company or to convert securities into such shares).

(13) For the purposes of subsection (12)—

(a) “Act of 1983” means the Companies (Amendment) Act 1983 ;

(b) the reference to the grant of an authority includes a reference to the conferral, by the articles of the company, of an authority; and

(c) the exclusion of the application of section 20(4) of the Act of 1983 by paragraph (b) of subsection (12) shall not be taken as preventing the renewal of the authority concerned under section 69 and this section, but if that authority is so renewed, section 69 and this section shall apply to any allotment, or the grant of any right, as mentioned in subsection (12), that occurs after that renewal of authority on foot thereof.