

Shares of a company held by a nominee of a company

104. (1) Subject to subsection (5), where shares in a company are issued to a nominee of the company or are acquired by a nominee of the company from a third party as partly paid up, then for all purposes the shares shall be treated as held by the nominee on his or her own account and the company shall be regarded as having no beneficial interest in them.

(2) If a person is called on to pay any amount for the purpose of paying up, or paying any premium on, any shares in a company which were issued to him or her, or which he or she otherwise acquired, as the nominee of the company and he or she fails to pay that amount within 21 days after the date on which he or she is called on to do so, then—

(a) if the shares were issued to him or her as a subscriber to the constitution by virtue of an undertaking of his or hers in the constitution, the other subscribers, if any, to the constitution; or

(b) if the shares were otherwise issued to or acquired by him or her, the directors of the company at the time of the issue or acquisition,

shall be jointly and severally liable with him or her to pay that amount.

(3) If in proceedings for the recovery of any such amount from any such subscriber or director under this section, it appears to the court that he or she is or may be liable to pay that amount, but that he or she has acted honestly and reasonably and that, having regard to all the circumstances of the case, he or she ought fairly to be excused from liability, the court may relieve him or her, either wholly or partly, from his or her liability on such terms as the court thinks fit.

(4) Where any such subscriber or director has reason to apprehend that a claim will or might be made for the recovery of any such amount from him or her, he or she may apply to the court for relief and on the application the court shall have the same power to relieve him or her as it would have had in proceedings for the recovery of that amount.

(5) Subsections (1) and (2) shall not apply—

(a) to shares acquired by a nominee of a company where the company has no beneficial interest in those shares (disregarding any right which the company itself may have as trustee, whether as personal representative or otherwise, to recover its expenses or be remunerated out of the trust property); or

(b) to shares issued in consequence of an application made for them before 13 October 1983 or transferred in pursuance of an agreement to acquire them made before that date.