

Stock borrowing. FA 1995 s150 87.—(1) In this section—

“collateral stock”, in relation to a stock borrowing, means stock which is transferred to the lender by means of security for the performance of the undertaking referred to in paragraph (b) of the definition of “stock borrowing”;

“equivalent stock” means stock of an identical type, nominal value, description and amount as was so obtained from the lender or where, since the date of the stock borrowing, such stock has been paid or has been converted, subdivided, consolidated, redeemed, made the subject of a takeover, call on partly paid stock, capitalisation issue, rights issue, distribution or other similar event, then “equivalent stock” means—

(a) in the case of conversion, subdivision or consolidation, the stock into which the borrowed stock has been converted, subdivided or consolidated,

(b) in the case of redemption, a sum of money equivalent to the proceeds of the redemption,

(c) in the case of takeover, a sum of money or stock, being the consideration or alternative consideration which the lender has directed the stock borrower to accept,

(d) in the case of a call on partly paid stock, the paid-up stock but only where the lender shall have paid to the stock borrower the sum due,

(e) in the case of a capitalisation issue, the borrowed stock together with the stock allotted by means of a bonus on that borrowed stock,

(f) in the case of a rights issue, the borrowed stock together with the stock allotted on that borrowed stock, which the lender has directed the borrower to take up but only where the lender shall have paid to the stock borrower all and any sum due in respect of the stock allotted,

(g) in the event that a distribution is made in respect of the borrowed stock in the form of stock or a certificate which may at a future date be exchanged for stock or where an option is exercised to take a distribution in the form of stock or a certificate which may at a future date be exchanged for stock, the borrowed stock together with stock or a certificate equivalent to those allotted, and

(h) in the case of any event similar to any of the foregoing, the borrowed stock together with or replaced by a sum of money or stock equivalent to that received in respect of such borrowed stock resulting from such events;

“stock” means stock dealt in on a recognised stock exchange;

“stock borrower” means a member firm within the meaning of section 68 (1), or a market maker within the meaning of section 68 (1), or a nominee of such member firm or market maker;

“stock borrowing” means a transaction in which a stock borrower—

(a) for the sole purpose of completing a contract for the sale of stock entered into by that stock borrower in the course of that borrower's business as a broker and dealer or market maker obtains from a person (in this section referred to as “the lender”) stock of the kind required for that purpose, and

(b) gives an undertaking to provide to the lender, not later than 3 months after the date on which that stock borrower obtained the stock referred to in paragraph (a), equivalent stock;

“stock return”, in relation to a stock borrowing, means a transaction or transactions in which, in respect of such stock borrowing, the undertaking referred to in paragraph (b) of the definition of “stock borrowing” is carried out within the period referred to in that paragraph.

(2) Stamp duty shall not be chargeable—

(a) on a stock borrowing or on a stock return, or

(b) on the transfer of collateral stock to the lender.

(3) If and to the extent that the stock borrower does not return or cause to be returned to the lender before the expiration of the period of 3 months from the date of the stock borrowing equivalent stock the stock borrower shall pay to the Commissioners within 14 days after the expiration of that period the amount of ad valorem duty which would have been chargeable on the stock so obtained if this section had not been enacted and if any stock borrower fails to duly pay any sum which that borrower is liable to pay under this subsection, that sum, together with interest on that sum at the rate of 1 per cent per month or part of a month from the first day after the expiration of that period of 3 months to the date of payment of that sum and, by means of further penalty, a sum equal to 1 per cent of the duty for each day the duty remains unpaid, shall be recoverable from the stock borrower as a debt due to the Minister for the benefit of the Central Fund.

(4) Every stock borrower shall maintain separate records of each stock borrowing and any stock return made in respect of that stock borrowing and such records shall include, in respect of each stock borrowing, the following:

(a) evidence that the stock borrower was obliged to supply stock to complete a trade;

(b) the name and address of the lender;

(c) the type, nominal value, description and amount of stock borrowed from the lender;

(d) the date on which the stock was transferred from the lender to the stock borrower;

(e) the date on which equivalent stock should be returned to the lender;

(f) the type, nominal value, description and amount of the stock returned to the lender and the date of

the stock return;

(g) where paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of the definition of “equivalent stock” in subsection (1) applies, full details of that equivalent stock.