

Interests in shares and debentures for purposes of section 803: general

804. (1) Without prejudice to the subsequent provisions of this Chapter, this section applies to the construction, for the purposes of—

(a) section 803, and

(b) the subsequent sections of this Chapter as they relate to any spouse, minor child, body corporate or a party to an agreement,

(in this section referred to, respectively, as the “relevant purposes” and the “relevant sections”) of references to—

(i) a person's being interested in shares or debentures, or

(ii) an interest in shares or debentures.

(2) For the relevant purposes, a reference to an interest in shares or debentures in the relevant sections is to be read as including an interest of any kind whatsoever in the shares or debentures.

(3) Accordingly there are to be disregarded any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject.

(4) Where property is held on trust and an interest in shares or debentures is comprised in the property, a beneficiary of the trust who, apart from this subsection, does not have an interest in the shares or debentures, as appropriate, is to be taken, for the relevant purposes, as having such an interest; but this subsection is without prejudice to the following provisions of this section.

(5) A person is taken, for the relevant purposes, to have an interest in shares or debentures if—

(a) the person enters into a contract for their purchase by him or her (whether for cash or other consideration), or

(b) in the case of shares, not being the registered holder of the shares, the person is entitled to exercise any right conferred by the holding of the shares or is entitled to control the exercise of any such right.

(6) For the purposes of subsection (5)(b), a person is entitled to exercise or control the exercise of any right conferred by the holding of shares if the person—

(a) has a right (whether subject to conditions or not) the exercise of which would make him or her so entitled, or

(b) is under an obligation (whether so subject or not) the fulfilment of which would make him or her so entitled.

(7) For the relevant purposes, a person is taken to have an interest in shares or debentures if, otherwise than by virtue of having an interest under a trust, the person has a right to acquire an interest in shares or debentures, as appropriate, or is under an obligation to take an interest in shares or debentures, as appropriate, whether in any case the right or obligation is conditional or absolute.

(8) Without prejudice to subsections (2) and (3), rights or obligations to subscribe for any shares shall not be taken for the purposes of subsection (7) to be rights to acquire, or obligations to take, any interest in shares.

(9) Where persons have a joint interest, each of them shall be taken, for the relevant purposes, to have that interest.