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THE ISSUE OF SHARES,  
DEBENTURES AND BONDS  
BY JOINT STOCK COMPANIES

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THE ISSUE OF  
SHARES, DEBENTURES  
AND BONDS  
BY JOINT STOCK COMPANIES

BY  
HAROLD W. BATTY  
F.S.A.A. (Hons.), F.C.I.S.



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## P R E F A C E

IN writing this book on the issue of Shares, Debentures and Bonds, I have endeavoured to deal with the subject in a practical manner. It is hoped that the specimen forms for use in connection with the issue of capital may be more particularly of service to Secretaries and Registrars of Companies, as well as practising Accountants actually concerned in the work of dealing with issues.

At the same time, it is also hoped that the book may be found of general use to all concerned in the important branch of present-day finance indicated by the title, and to students.

HAROLD W. BATTY

126 BISHOPSGATE  
LONDON, E.C.2



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THE  
ISSUE OF SHARES, DEBENTURES  
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CHAPTER I

METHODS OF RAISING CAPITAL

THE raising of capital in one form or another by joint stock companies for the promotion or development of business enterprise is an integral part of the economic structure.

The capital may be required to promote a new enterprise, for the expansion of an established one or for the resuscitation of one which has not been successful.

A company may be a "one man concern," that is to say, the whole of the capital, with the exception of one share, may be found by a single individual, the primary object of the formation of a company being, in such cases, usually the protection of limited liability, but frequently it is desired to introduce the capital of others, either because the leader of the enterprise does not desire to put up all the capital necessary or desirable, or, more frequently, because he is unable to do so and can trade to better

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advantage by utilizing more capital than he himself has available.

The raising of the required capital may be by various methods. Broadly, it is either by private placings or by public issue, but there are varying gradations, merging one more or less into the other. Thus, a private placing of capital may be strictly limited to an offer of shares to the family or immediate *entourage* of the promoter or the appeal may be to a wider circle, e.g. to the shareholders of an existing company. Again, the issue, although to a limited circle, may be made either with the intent that the investment should not be readily marketable or with the intention that the allottees shall have every opportunity of disposing of their investment. Where the offer is to the general public, it is practically essential that facilities for buying and selling should be available, and the desire for marketability is often one of the reasons for making a public offer.

The Companies Act, 1929, which governs all companies other than those formed by Royal Charter or by special Acts of Parliament, provides for private companies and public companies, a private company being defined by Section 26 of the Act as one which by its Articles—

(a) restricts the right to transfer its shares; and

(6) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members of the company; and

(c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

Private companies enjoy certain privileges and exemptions provided they comply with the provisions of their Articles.

The prohibition of any invitation to the public to subscribe and the limitation on the number of shareholders render the formation of a private company an unsuitable medium for the raising of capital, except in the case of a family concern or an enterprise appealing to a few persons.

On the other hand, there is, of course, no obligation on a public company to appeal to the public for capital, though it is free to do so. A public company must, before proceeding to allotment, either issue a prospectus (having first delivered to the Registrar of Companies a copy in accordance with Section 34, C.A., 1929) or delivered to the Registrar a statement in lieu of prospectus (Section 40), and shall not commence any business or

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exercise any borrowing powers until this has been done and

(a) In the case of a company having issued a prospectus, shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription (as set out in the prospectus).

(b) Every director has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash a proportion equal to the proportion payable on application and allotment on the shares (i) offered for subscription on a prospectus or (ii) payable in cash, where a prospectus is not issued.

(c) There has been delivered to the Registrar of Companies for registration a statutory declaration by the secretary or one of the directors in the prescribed form that paragraphs (a) where applicable and (6) have been complied with (Section 94).

Consequently, in the case of a public company, the initial capital can be raised either on a prospectus or privately, after a statement in lieu of prospectus has been delivered for registration.

Once the initial capital has been raised and the company has obtained its certificate to

commence business, subsequent issues can always be made to the public on a further prospectus, by issue to existing shareholders or by a private placing.

## CHAPTER II

### FORMS OF CAPITAL

CAPITAL may be issued in the form of either loan capital or share capital. Loan capital issued to the public is usually in the form of debentures or debenture stock, either with or without some form of mortgage or charge. A common form of charge is a mortgage of the fixed assets and/or a floating charge on the whole undertaking, with, frequently, trustees for the debenture or debenture-stock holders.

It is a not uncommon mistake to suppose that debentures necessarily give some charge; this is not so. Where no charge is given, the debentures are often called by another name, e.g. notes.

Debentures and debenture stock are redeemable in accordance with the terms of issue or may be irredeemable (Section 74). Debentures which have been redeemed may, in certain cases, be re-issued (Section 75).

It is a general principle of law that an undertaking to lend money cannot be enforced, but Section 76, C.A., 1929, provides that a contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Share capital may be divided into various kinds of shares, each being given different rights with varying names, e.g. preference, preferred ordinary, ordinary, deferred ordinary, etc. Share capital is necessarily permanent, except that, since the coming into force of the C.A., 1929, it has been legal to issue redeemable preference shares.

Redeemable preference shares can be issued only if the company is so authorized by its Articles of Association, and even then the shares can be redeemed only out of a new issue of shares or out of profits set aside to a capital redemption reserve fund, which can be applied in paying up unissued shares of the company to be issued to members of the company as fully-paid bonus shares. Until so applied, the provisions of the Act relating to the reduction of share capital apply as if the capital redemption reserve fund were paid-up share capital (Section 46).

In effect, therefore, redeemable preference shares are (like other forms of share capital) permanent capital, since, when redeemed, they must either be replaced by share capital to a similar amount not liable to redemption or by a capital redemption reserve fund created out of profits, which is then treated as an addition to the share capital.

Share capital, although permanent, may in certain circumstances be repaid to the shareholders, but this can only be done with the

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consent of the Court (Section 55), except, of course, in a liquidation.

The object of these provisions is to safeguard the interests of creditors, who might otherwise suffer by the depletion of assets which should be available to meet claims.

For a similar reason, although it is lawful in certain circumstances for a company to issue shares at a discount (Section 47), this course also requires the Court's sanction.

Thus, it may be said that, except as provided for under Section 47, and except that a commission not exceeding 10 per cent of the price at which shares are issued and customary brokerage may be paid (Section 43), a company's share capital can only be issued for cash to the full nominal amount being paid or for money's worth, and, although the capital may subsequently be depleted by assets being acquired at too high a price or by revenue losses, the aim of the law appears to be that, as far as possible, the share capital shall remain intact, or, at least, that it shall not be reduced by payments to shareholders, except in such cases as may receive the Court's approval.

Loan capital, being in a different category, can always be issued at a discount and it is, in fact, by no means uncommon so to issue it. It will be repayable in accordance with the terms of issue, which frequently provide for a premium being payable upon redemption.

## CHAPTER III

### PROSPECTUS REQUIREMENTS

STRINGENT requirements are laid down in the C.A. as to the contents of the prospectus. A prospectus issued by or on behalf of a company or in relation to an intended company must be dated, and that date shall, unless the contrary is proved, be taken as the date of publication. A copy of every such prospectus, signed by every person named therein as a director or proposed director, or by his agent authorized in writing, shall be delivered to the Registrar of Companies for registration on or before the date of publication, and no such prospectus shall be issued until this has been done.

The Registrar will not register a prospectus unless it is dated and the copy signed as required, and the prospectus must state on the face of it that a copy has been delivered for registration (Section 34).

It will be noted from the wording of the Act that a prospectus may be lodged for registration and issued prior to the registration of the company, although in practice this is seldom done.

Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in

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the formation of the company, must state the matters specified in Part I of the Fourth Schedule to the Act and set out the reports specified in Part II of that Schedule, subject to the provisions contained in Part III of the Schedule (Section 35). These provisions are as follow—

### PART I

#### *Matters required to be stated in Prospectus*

1. Except where the prospectus is published as a newspaper advertisement, the contents of the memorandum with the names, descriptions and addresses of the signatories and the number of shares subscribed by them respectively.

2. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

3. The number of shares, if any, fixed by the Articles as the qualification of a director, and any provision in the Articles as to the remuneration of the directors.

4. The names, descriptions and addresses of the directors or proposed directors.

5. Where shares are offered to the public for subscription, particulars as to—

(i) The minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters—

(a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(b) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(c) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(d) working capital; and

(ii) The amounts to be provided in respect of the matters

aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

6. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted and the amount, if any, paid on the shares so allotted.

7. The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

8. The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor.

9. The amount, if any, paid or payable as purchase money in cash, shares or debentures for any such property as aforesaid, specifying the amount, if any, payable for goodwill.

10. The amount, if any, paid within the two preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission.

11. The amount or estimated amount of preliminary expenses.

12. The amount paid within the two preceding years or intended to be paid to any promoter, and the consideration for any such payment.

13. The dates and parties to every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus, and a reasonable time and

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place at which any such material contract or a copy thereof may be inspected.

14. The names and addresses of the auditors, if any, of the company.

15. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

16. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

17. In the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

### PART II

#### *Reports to be set out in Prospectus*

1. A report by the auditors of the company with respect to the profits of the company in respect of each of the three financial years immediately preceding the issue of the prospectus, and with respect to the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the said three years, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years, and, if no accounts have been made up in respect of any part of the period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact.

2. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by

accountants who shall be named in the prospectus upon the profits of the business in respect of each of the three financial years immediately preceding the issue of the prospectus.

## PART m

*Provisions applying to Parts I and II of Schedule*

1. The provisions of this Schedule with respect to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of the preliminary expenses, shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business.

2. Every person shall for the purposes of this Schedule be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—

(a) the purchase money is not fully paid at the date of the issue of the prospectus;

(b) the purchase money is to be paid (or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;

(c) the contract depends for its validity or fulfilment on the result of that issue.

3. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

4. For the purposes of paragraph 8 of Part I of this Schedule where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

5. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the accounts of the company or business have only been made up in respect of two years or one year, Part II of this Schedule shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years.

6. The expression "financial year" in Part II of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates

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the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of the said Part of this Schedule be deemed to be a financial year.

At one time, it was common for prospectuses to contain a clause binding applicants to waive full compliance with the requirements as to disclosure of material contracts, but, under the present Act, such a condition is void.

It is not lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of the Act, but this shall not apply if it is shown that the form of application was issued either—

(a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(b) in relation to shares or debentures which are not offered to the public (Section 35).

To ensure that an offer to a class of person shall not be construed as an offer to the public, the persons to whom the offer is made should be rigidly restricted, but an offer to the existing shareholders or debenture-holders of a company, whether an applicant will or will not have the right to renounce in favour of other persons, is specifically exempted from the requirements of the section.

Where a company allots or agrees to allot any shares or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company. It shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown—

(a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or

(b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received (Section 38).

It will be seen that, if it is desired to introduce public capital into a company, it is not easy to avoid the issue of a prospectus, with its stringent requirements and the serious consequences that may ensue for all concerned if there is any material omission or mis-statement in the document. Once, however, public capital has been introduced, further issues of capital may be made without a prospectus by confining the issue to existing

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holders of shares or debentures or by placings with financiers or dealers who, in turn, market them on the Stock Exchange.

Public capital may, however, be introduced without the issue of a prospectus by private placings in the first instance, followed by a market introduction. To carry out this means of obtaining capital from the public, certain information has to be published, in order to comply with the requirements of the Stock Exchange, and the directors are required, individually and collectively, to assume responsibility for the published statements. The requirements of this statement are on the whole somewhat less stringent than the prospectus requirements.

The Committee of the Stock Exchange will, however, refuse to grant permission to deal unless it is satisfied that there is already sufficient public interest in the shares or debentures, and it would not seem easy to ensure this requirement being met before the market facilities of the Stock Exchange have been granted, without a public offer being made. Financiers who favour this method, however, usually have a considerable personal following, which enables them to spread the shares or debentures in sufficient hands to satisfy the requirement as to public interest existing before market facilities are granted.

House to house offers of shares for subscription are prohibited by Section 356, C.A. 1929.

## CHAPTER IV

### MATTERS PRECEDENT TO ISSUE OF PROSPECTUS

BEFORE a prospectus can be issued for raising capital there must, of course, be a company either in existence or in contemplation. If the company is already in existence, the first step will be a discussion at a board meeting, originating with the need of farther capital, as to the best method of raising it. Following that, there will be conferences with financiers or issuing houses and the company's brokers before the method of raising the capital is decided upon, after which the company's accountants and solicitors will be called in to assist in framing the prospectus, which it is usual to have settled by Counsel before it is finally agreed.

Where the company is not already in being, the first meetings will be between promoters and financiers or heads of issuing houses, who will evolve the main financial outlines of the scheme, building up the framework of the prospectus. They will decide on the directors, solicitors, auditors, stockbrokers, and other professional advisers for the company, who will then be called into consultation for settling the many points that call for consideration.

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The contents of the Memorandum and Articles of Association are primarily for the solicitors to draft, after taking the instructions of the promoters as to the objects for which the company is to be established, and ascertaining the wishes of the parties concerned in the promotion as to the amount of the directors' share qualification, method and amount of remuneration and other salient points. The brokers will see that the Articles are in accordance with the requirements of the Stock Exchange Committee, while the proposed Secretary will probably see that his own pet clauses for the efficient working of the company are inserted.

The solicitors will also see to the drafting of the necessary preliminary agreements and that all proper disclosure is made in the prospectus, but much of the work of settling the prospectus will probably fall on the accountants employed.

The original draft prospectus will probably have many alterations before it is finally settled, and it is frequent for as many as a dozen drafts (or even more) to be made before it can be issued. The directors, promoters, and persons who have authorized the issue of the prospectus are the parties chiefly responsible for this important document, but they naturally rely in large measure on the advice of their legal, accountancy and other professional advisers.

The documents that have to be filed at the Joint Stock Registry upon formation of a company or immediately thereafter are as follow—

(1) Memorandum and Articles of Association.

(2) Declaration of Compliance with Companies Act.

(3) Statement of Nominal Capital.

\* (4) Consent to act as Director.

\* (5) Undertaking by Director to take and pay for qualification shares.

\* (6) List of persons who have consented to be Directors.

(7) Notice of Situation of Registered Office.

(8) Particulars of Directors or Managers.

\* (9) Prospectus or Statement in Lieu of Prospectus.

\* (10) Declaration of Compliance with Section 94 of Companies Act, 1929.

\* These are required only in the case of public companies. It will not be possible to file document (10) until after incorporation, but it should be filed as soon thereafter as possible, in order that the company may obtain the certificate to commence business.

## CHAPTER V

### UNDERWRITING AND COMMISSION ON PLACINGS

As previously stated, Section 43, C.A., 1929, provides for the legality for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if—

(a) the payment of the commission is authorized by the Articles; and

(b) the commission paid or agreed to be paid does not exceed 10 per cent of the price at which the shares are issued or the amount or rate authorized by the Articles, whichever is the less; and

(c) the amount or rate per cent of the commission paid or agreed to be paid is—

(i) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(ii) in the case of shares not offered to

the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus, and delivered before the payment of the commission to the Registrar of Companies for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and

(*d*) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

The commission permitted under this provision is usually paid for the placing of shares or for underwriting an issue.

An agreement to underwrite an issue, i.e. to guarantee its success by taking up or finding responsible persons to take up the shares, debentures or debenture stock offered for subscription and not otherwise taken up in response to the offer, almost invariably provides for sub-underwriting and usually contains a clause providing for the release of the main underwriter on the company accepting the sub-underwriting contracts.

The underwriter then enters into various sub-underwriting agreements in some such form as the following—

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This Form to be sent entire, with a deposit of \_\_\_\_\_ per  
Share on the number of Shares sub-underwritten to  
*Form of Sub-underwriting*

The Blank Company, Limited  
(Incorporated under the Companies Act, 1929)

Capital £.....  
Divided into \_\_\_\_\_ Shares of \_\_\_\_\_ each.  
Issue at par of \_\_\_\_\_  
Shares of \_\_\_\_\_ each

Cheques should be drawn to "The Blank Company, Limited"  
or "Bearer/" and crossed "Not Negotiable."

To  
Dear Sirs,

1. I/We understand that the above Company is about to offer for subscription at par \_\_\_\_\_ Shares of each and that you have underwritten, or propose to underwrite the said Shares. A printed draft of the Company's Prospectus marked U has been shown to me/us.

2. I/We, the undersigned, hereby sub-underwrite of the said Shares so to be offered, and I/we now hand you application for such Shares and cheque for £....., being payment of the amount due on application of per Share on the Shares sub-underwritten by me/us, which is to be applied accordingly.

3. My/our subscription is to be on the terms of the Prospectus as finally settled and filed with the Registrar of Companies.

4. If the whole of the \_\_\_\_\_ Shares shall be applied for by and allotted to the public, I am/we are not to be allotted any Shares in respect of my/our obligation hereunder, but if the whole of such Shares be not so applied for and allotted, then all applications made by the public on which allotments are made are to be applied in relief of the underwriters and sub-underwriters, including myself /our selves, rateably in proportion to the number of the Shares underwritten or sub-underwritten by them respectively. Any allotments made to me/us in respect of any firm application by me/us are to go exclusively in relief of my/our obligation hereunder and shall not be considered as an application by the public.

5. I am/We are not to be at liberty to withdraw from this Contract, and if I/we should purport to do so or fail to hand you the above-mentioned application you are hereby authorized in my/our name(s) or on my/our behalf to sign and put in an application in the form referred to in the Prospectus

as published for the number of Shares sub-underwritten by me/us, or any less number, which I am/we are liable to take up hereunder, and to take an allotment in respect thereof, and I/we will pay the allotment money immediately after receiving notice of allotment and indemnify you against any obligations undertaken by you in respect of such application, and this provision is to be irrevocable. You are also to be at liberty to fill in the date of the Prospectus, as filed, in the said Form of Application.

6. You are, if the Company proceeds to allotment on the Prospectus and within seven days after you shall have been paid your underwriting commission by the Company, to pay me/us a commission of \_\_\_\_\_ per cent in cash on the nominal amount of the Shares sub-underwritten by me/us, such commission to be paid whether I am/we are required to accept an allotment of Shares or not; but if an allotment be made to me/us no commission is to be payable until the application and allotment moneys payable by me/us have been paid, and you may apply the commission in or towards payment of such moneys.

7. My/Our obligation hereunder is to hold good notwithstanding any alterations or variations between the Draft Prospectus submitted to me/us, as above referred to, and the Prospectus as finally settled and published, provided only that the amount of the Capital of the Company, as stated above, and the number of Shares offered for subscription, namely, \_\_\_\_\_ Shares of \_\_\_\_\_ each are not altered and provided that the issue shall be offered for public subscription within three months from the date hereof; if not so offered, this Agreement shall be void.

8. Any notice to me/us may be served by sending the same by post addressed to me/us at the subjoined address and shall be deemed to be served on the day following that on which it is posted.

9. I/We undertake not to offer for sale or sell, directly or indirectly, any of the Shares above-mentioned until after the first general allotment to the public has taken place.

Be so good as to notify me/us of your acceptance of this proposal, either for the whole or any portion of the Shares mentioned above.

Signature of Sub-underwriter.....

Address .....

Dated....., 193 ..

I/We hereby apply for and wish to take firm.....  
of the above \_\_\_\_\_ Shares sub-underwritten by me/us,

be badly handicapped from the outset by their failure to carry out their undertakings and unable to obtain redress against the main underwriter.

So long as it is customary to use the form of main underwriting agreement referred to above, great responsibility rests upon issuing houses to make sure of the soundness of all sub-underwriting contracts and, still more, on directors to see that the main underwriter is not lightly released from responsibility by the substitution of sub-underwriting contracts.

A method sometimes adopted of dealing with shares or stock underwritten "firm" is to deduct the number of shares or amount of stock taken firm from the amount sub-underwritten and divide the amount applied for by the public *pro rata* in relief of the sub-underwriters of the balance, after making such deduction. Unless, however, this method is provided for in the sub-underwriting agreement, it is doubtful whether it can be justified. Failing definite provision to deal otherwise with "firm" applications by underwriters, it is probable that they should be left out of account in ascertaining the amount of underwriting over which the amount applied for by the public has to be spread.

The two methods of dealing with "firm" applications may be illustrated by taking a hypothetical case of an issue of 100,000



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shares sub-underwritten by ten underwriters of 10,000 shares each, two of whom each apply for 5,000 firm, 65,000 shares being applied for by the public.

Method (1) gives the following result—

Amount underwritten		100,000
<i>Less</i> Taken	firm	10,000
		<u>90,000</u>
Amount applied for by public		65,000
Amount to be taken by underwriters (27 <sup>^</sup> per cent).	"	25,000
Each underwriter receiving		2,500
other than the two who made firm applications, who would each receive an allotment of 7,500.		

Method (2) gives the following result—

Amount underwritten		100,000
		<u>75,000</u>
Total applied for (including 10,000 taken firm)		75,000
<i>Lass</i> Taken	firm	10,000
		<u>65,000</u>
Amount applied for by public		65,000
Amount to be taken by underwriters		35,000
Amount to be allotted to underwriters who have applied " firm " (2 at 5,000)		10,000
Amount to be taken by remaining underwriters		25,000
Each of the remaining underwriters receiving (31J per cent).		3,125

It will be seen that the second method is the more equitable, as shares taken firm should be taken in relief of the underwriters applying firm and not in relief of the general body of underwriters.

## CHAPTER VI

### STOCK EXCHANGE REQUIREMENTS

FOR those who seek the facility of dealing on the Stock Exchange in the securities issued by their company, a knowledge of the Committee's requirements is essential. No securities may be dealt in without the Committee's permission, and, while there is not, and never can be, any guarantee that this permission will be granted, it may be taken as a general principle that it will usually be given in cases where there is sufficient public interest to warrant it and where the Committee's requirements are fully complied with. In the report of a special sub-committee on new issues and official quotations appointed by the Committee for General Purposes of the Stock Exchange, dated 21st July, 1930, and adopted by the Committee on 11th August, 1930, it was stated that "the Committee has always had in view the paramount necessity of not doing anything which would in any way hamper or stifle genuine business enterprises, and the regulations now made will only be restrictive to the extent of keeping the shares of immature companies off the market and thus protecting the public from investing their money in concerns which have not at that date the right to command public support."

It is sometimes urged by disappointed subscribers to a new issue, dealings in which are not allowed by the Committee of the Stock Exchange, that the decision of the Committee should be given before the issue is made, but such contentions ignore the point that it is only after allotment that all information necessary to enable the Committee to form its judgment is available.

The Rules of the Stock Exchange Committee relating to new issues and official quotations are as follow—

159. (1) Dealings will not be permitted in any new issue until allowed by the Committee unless excepted from this Rule under Appendix 34d or 34e (*vide* Appendix 34).

(2) Dealing in "Results" is not allowed.

(3) In addition to the powers contained in Rule 163 (2) and (3) the Committee may withdraw or suspend the record, but order that bargains be marked, or withdraw or suspend Permission to deal in any security for any cause and in particular in the case of a company which fails to publish a statutory or annual report within the prescribed period or in the case of serious default by underwriters or sub-underwriters in meeting their commitments.

(4) The decisions of the Committee regarding—

(i) Rejections of applications for permission to deal.

(ii) Withdrawal or suspension of permission to deal.

(iii) Withdrawal or suspension of permission to record bargains in accordance with Clause (3) of Rule 163 will be posted in the House and, when ordered by the Committee, communicated to the Exchange Telegraph Company for announcement on the tape.

162. (1) The Committee may order the quotation in the official list of any security of sufficient magnitude and importance and in which there is sufficient public interest.

(2) Applications for quotation must be made to the Secretary of the Share and Loan Department and must comply with such conditions and requirements as may be ordered from time to time by the Committee, and as laid down in

Appendix 35, except in cases where the Committee may determine to waive one or more of such conditions or requirements.

(3) Three days' public notice must be given of every application.

(4) A broker, a member of the Stock Exchange, must be authorized to give the Committee full information as to the security and to furnish them with all particulars they may require.

Appendices 34 and 35 are as follow—

**REGULATIONS FOR OBTAINING PERMISSION TO DEAL IN NEW SHARES**

(Rule 159)

A. The following documents and particulars should be sent to the Secretary of the Share and Loan Department, when application is made for permission to deal—

1. (a) Certificate of Incorporation (in the case of a company registered abroad notarially certified copy or translation of Certificate of Incorporation and of By-Laws), (6) The Certificate entitling the company to commence business (if required), and (c) Memorandum and Articles of Association and copy or draft of Trust Deed (if applicable).

2. Copy of resolutions authorizing issue.

3. Certified copy of agreement relating to issue of shares credited as fully-paid and of any other contracts mentioned in prospectus.

4. In the case of an issue for cash, copy of prospectus, offer for sale or circular of issue, stating all material conditions relating to the flotation of the issue, and (in the case of a new company) to the formation of the company and if publicly advertised, copy of principal London newspaper in which the full prospectus was advertised. In the case of an issue by prospectus, offer for sale, or circular it must be stated whether any shares are under option and if so at what prices, when such options expire and the consideration (if any) given for such options. The London broker's name must appear on any prospectus or offer for sale, but this regulation shall not apply to issues by foreign governments or foreign municipal authorities.

5. Specimen (or advance proof) of Allotment Letter, and, if possible, of Scrip and Definitive Certificates. Allotment Letters must be serially numbered and be printed on good quality paper. Any Renunciation Letter attached to an Allotment Letter for fully-paid shares must not be current

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for a period exceeding six weeks and for partly-paid shares for a period exceeding one month from the date of the **final** call. When, at the same time as an allotment is made **for** shares issued for cash, shares of the same class are also allotted, credited as fully-paid, to vendors or others for a consideration other than cash, the period for renunciation may be the same as, but not longer than, that allowed in the case of shares issued for cash. The form of renunciation on Allotment Letters (and Letters of Rights) must be printed on the back of, or attached to the document in question. Split Allotment Letters and split Letters of Rights must be certified by an official of the company.

*Note.* In cases where an Issuing House or other body **or** person has purchased an issue of stock which is subsequently offered to the public, a certified copy of the resolution or other document, evidencing that the purchaser has received due authority to issue scrip on account of the seller, must be supplied. If no such authority has been given, the scrip must be enfaced "Contractor's Scrip." "Contractor's Scrip" may not be issued in cases of issues made by County Councils, Municipal Corporations, or other Local Authorities of Great Britain and Northern Ireland.

In order to facilitate the certification of transfers it is suggested that the Allotment Letters should contain the distinctive numbers of the shares to which they relate.

6. Letter (a) giving distinctive numbers—

(1) of shares for which permission to deal is being applied for, distinguishing those to be allotted—

(c) for cash;

(v) to vendors or others for a consideration other than cash or in exchange for cash;

(o) in pursuance of an option.

(2) Giving number of shares unissued or for which permission to deal is not applied for, distinguishing those—

(v) allotted to vendors or others for a consideration other than cash or in exchange for cash;

(o) under option;

(r) reserved for future issue.

(3) In the case of a further issue stating whether or not the shares are identical in all respects with existing shares.

7. Approximate date when Definitive Certificates will be ready for issue.

8. List of allottees or present holders—name, address and holding (when required).

9. In all cases other than Government and Municipal Loans, and issues by Statutory Boards, companies incorporated by Special Act of Parliament and other similar authorities, whether the issue is made by prospectus or otherwise, particulars of any underwriting or commission must be disclosed and a copy of the underwriting agreement and of sub-underwriting letter, if any, together with (if required) a list containing the names, addresses and descriptions of sub-underwriters and the amount sub-underwritten must be lodged with the Department.

10. An undertaking under the seal of the company in the following form and to the following effect (printed copies of such undertaking are available in the Share and Loan Department)—

(1) To split Letters of Allotment and if a "Rights" issue to split Letters of Rights, and to have any such "Splits" certified by an official of the company.

(2) To issue the Definitive Certificates within one month of the date of the lodgment of the transfer and to issue balance certificates, if required, within the same period.

(3) To notify the share or stockholder as soon as a transfer out of his name has been certified by the company's officials or notification of certification has been received from the Share and Loan Department or any Associated Stock Exchange.

(4) To issue all Allotment Letters simultaneously numbered serially and in the event of its being impossible to issue Letters of Regret at the same time to insert in the Press a notice to that effect, so that the notice shall appear on the morning after the Letters of Allotment have been posted.

(5) To certify transfers against Allotment Letters.

(6) Where power has been taken in the Articles to issue Share Warrants to Bearer, in the event of the company deciding to make such an issue: (1) to issue such Warrants in exchange for registered shares within three weeks of the deposit of the Share Certificates; and (2) to certify transfers against the deposit of Share Warrants to Bearer.

(7) To notify the Share and Loan Department without delay—

(i) Of any changes in the Directorate by death, resignation or removal;

(ii) Of any extension of time granted for the currency of temporary documents.

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(8) To forward to the Share and Loan Department—

(a) Three copies of the Statutory and Annual Report and Accounts as soon as issued (unless such provision is contained in the Articles of Association).

(b) Three copies of all resolutions increasing the capital and all notices relating to further issues of capital, call letters or any other circular at the same time as sent to the shareholders.

(c) Three copies of all resolutions passed by the company in general meeting other than resolutions passed at an ordinary general meeting for the purpose of adopting the report and accounts, declaring dividends, and re-electing Directors and Auditors; and

(d) To advise the Share and Loan Department by letter of all dividends recommended or declared immediately the Board Meeting has been held to fix the same.

11. In issues made by County Councils, Municipal Corporations or other Local Authorities (hereinafter all referred to as the "Local Authority") the following regulations must also be complied with.

(1) If Scrip Certificates are to be issued—

(a) The denominations must be stated in the prospectus or the advertisement published under Appendix 34B.

(b) They must be ready for issue within twenty-one days of allotment.

(c) They must bear an autographic signature and there must be supplied to the Committee and (in cases where the official signing is not the Registrar or his officer) to the Registrar of the Stock, specimen signatures of the official or officials of the borrower, bank or issuing house authorized to sign together with the distinctive numbers of the scrip signed by each official.

(2) The following letter, signed by a duly authorised official of the Borrower, must accompany the application—

*To the Committee for General Purposes,  
The Stock Exchange.*

In connection with the issue of £.....  
Stock of the (Local Authority)

STOCK EXCHANGE REQUIREMENTS 33

I hereby certify that arrangements to the following effect have been duly made—

*If the issue is made by Prospectus.* All moneys received by the Bank  
Issuing House  
under the Prospectus dated \_\_\_\_\_  
on behalf of the \_\_\_\_\_ (Local  
Authority) and to which they are entitled will be paid within the following periods to the  
Bank at \_\_\_\_\_ being the  
ordinary Bankers of the \_\_\_\_\_ (Local  
Authority) for credit to a special account which has been opened in the name of the Stock :—

Moneys paid prior to allotment—three days after allotment. All other moneys—twenty -four hours after collection.

*If the Stock has been sold outright to a Purchaser.*

Allotment letters and Scrip Certificates are not being issued by \_\_\_\_\_ (Purchaser) on his (or their) own behalf but by or on behalf of the \_\_\_\_\_ (Local Authority). No such document will be issued until the \_\_\_\_\_ (Purchaser) has paid to the \_\_\_\_\_ (Bank) at \_\_\_\_\_ being the ordinary Bankers of the \_\_\_\_\_ (Local Authority) for credit to a Special Banking Account which has been opened in the name of the Stock all sums due from the \_\_\_\_\_ (Purchaser) in respect of the amount certified in the document to have been paid by the holder thereof.

The Bank  
Issuing House will supply  
the Registrar—

- (1) As early as practicable with a complete record of the Scrip Certificates issued by them showing in each case the number and other identification mark of the Certificate, the amount of Stock to which it relates and a description of the manner in which it has been authenticated and
- (2) will notify the Registrar immediately payment has been made in full on any Scrip Certificate.

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(*Note.* Where Scrip Certificates are not to be issued the above Clause to be amended so that it applies to allotment letters.)

OR

(In cases where the Bank or Issuing House are also Registrars of the Stock.)

The Bank  
Issuing House are the duly appointed Registrars of the Stock.

The Registrar will not register or inscribe any person as a holder of the Stock except on surrender for cancellation of fully-paid Scrip Certificates for that amount. Provided that if a Scrip Certificate is lost or destroyed the Registrar may not earlier than the first day on which Scrip Certificates can be lodged for registration or inscription register or inscribe a person claiming to be the holder of the lost or destroyed Scrip upon such indemnity being given as may be required.

*Note.* 1. If Scrip Certificates are not to be issued amend by substituting "fully-paid allotment letters" for "Scrip Certificates."

*Note.* 2. This Clause will not be required in cases where the Local Authority themselves carry out the issue of the allotment letters and Scrip Certificates and the Registrar of the Stock is their officer. In such a case it will be sufficient to state the fact.

B. In the absence of any prospectus publicly advertised in this country, or circular to shareholders, the Committee will also require an advertisement in two leading London morning papers giving all material conditions relating to the formation of the company and to the flotation of the issue, and, headed as under—

"This notice is not an invitation to the Public to subscribe, but is issued in compliance with the Regulations of the Committee of The Stock Exchange, London, for the purpose of giving information to the Public with regard to the Company. The Directors collectively and individually accept full responsibility for the accuracy of the information given."

The advertisement must be in the appropriate form I, II, III, or IV herein.

A copy of the advertisement must be signed by or (with the consent of the Committee) on behalf of all the Directors and a signed copy together with a properly certified copy of the Resolution of the Board of the Company approving and authorizing the advertisement must be lodged with the Share and Loan Department, except that in the case of Foreign Companies the Committee may dispense with a copy of the advertisement so signed on receiving satisfactory evidence that it has been approved and authorized by a Resolution of the Board of the Company.

A copy of each of the Newspapers in which the advertisement appears must be supplied.

|

In the case of a company (other than a company incorporated by a Special Act of Parliament): (a) no part of whose share or loan capital is already dealt in or quoted on The Stock Exchange, and (6) whose annual accounts for at least two years have not been made up and audited, the statement required to be advertised by Appendix 34B must contain the following information—

- (1) How, when and where the company was incorporated.
- (2) The principal objects of the company.
- (3) In the case of a company not incorporated in the United Kingdom, whether it has or has not a place of business in the United Kingdom, and the address of the principal place of business in the United Kingdom (if any).
- (4) The names, addresses and descriptions of the Directors.
- (5) The name, address and professional qualification of the Auditors.

*Note.* Qualification means Chartered Accountant, Incorporated Accountant, etc.

(6) The names and addresses of the Bankers, London Brokers and Secretary and situation of Registered Office.

(7) The nominal capital of the company, the amount issued or agreed to be issued, the amount paid up and, where there is more than one class of share, the rights of each class of share as regards dividend, capital and voting.

(8) Particulars of any loan capital created and the amount issued and outstanding or agreed to be issued, and of the rights conferred upon the holders thereof and the obligations undertaken by the company in respect thereof, and short particulars of any mortgages and charges subsisting on any part of the company's assets.

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(9) In the case of share or loan capital issued or agreed to be issued for cash, the price and terms upon which the same has been or is to be issued and (if not already fully-paid) the dates when instalments are payable with the amount of all calls or instalments in arrear.

(10) The provisions of the Articles of Association, By-Laws or other corresponding document with regard to—

(a) Qualification of Directors.

(b) Remuneration of Directors or other similar body.

(c) Any provisions enabling the Directors to vote remuneration to themselves or any members of their body.

(d) Any provisions with regard to the borrowing powers of the Directors and how such borrowing powers can be varied.

(11) Particulars of any preliminary expenses incurred or proposed to be incurred.

(12) A statement setting out clearly the working capital with which the company started or is to start business, additions (if any) since made and whence derived, and the amount available at the date of the statement for working capital, after providing for all purchase considerations, promotion profits, preliminary expenses, losses, and interest or dividend payments to date, with a statement by the Directors that in their opinion the working capital available is sufficient or, if not, how it is proposed to provide the additional working capital thought by the Directors to be necessary.

(13) Particulars of the share or loan capital that has been issued or is proposed to be issued fully or partly paid up otherwise than in cash and the consideration for which the same has been issued or is proposed to be issued.

(14) The names and addresses of the vendors of any property purchased or acquired by the company or proposed to be purchased or acquired on capital account and the amount paid or payable in cash, shares or securities to the vendor and, where there is more than one separate vendor or the company is a sub-purchaser, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill.

(15) The amount of any cash, shares or securities paid or proposed to be paid to any Promoter and the consideration for such payment.

(16) Particulars of any commissions, discounts, brokerages or other special terms granted to any persons in connection with the issue or sale of any of the share or loan capital of the company.

(17) A statement of the issued share capital of any company acting as Promoter or principal underwriter; the amount paid up thereon; the date of its incorporation; the names of its Directors, Bankers and Auditors; and such other particulars as the Committee think necessary in connection therewith, unless particulars of such Company are contained in the issue of the "Stock Exchange Official Year-Book" current at the date of the publication of this advertisement.

(18) The dates and parties to all material contracts with a description of the nature of the contracts not being contracts entered into in the ordinary course of the business carried on or intended to be carried on by the company.

(19) Particulars of any of the share or loan capital of the company which is under option, or agreed to be put under option, with the price and term of the option and consideration for which the option was granted.

(20) Full particulars of the nature and extent of the interest (if any) of every Director in the promotion of, or the property proposed to be acquired by, the company, and, where the interest of such a Director consists of being a partner in a firm, the nature or extent of the interests of the firm.

(21) A statement of all sums paid or agreed to be paid to any Director or to any firm of which he is a member in cash or shares or otherwise by any person either to induce him to become or to qualify him as a Director or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

(22) A statement certified by the company's Auditors as to the periods (if any) for which the company's accounts have been made up and audited and particulars of the share or loan capital subscribed and the cash actually received by the company in connection therewith, also particulars of all dividends paid and amounts carried forward and carried or proposed to be carried to reserve out of the profits of any such periods as shown in the accounts submitted to the shareholders or in the Directors' Reports attached to the Balance Sheet under Section 123 (2) of the Companies Act, 1929.

(23) A copy of the last audited Balance Sheet and Profit and Loss Account with a copy of the Auditors' Certificate and any notes or observations in or on the Balance Sheet required to be published by any Act of Parliament relating to the company.

(24) If the company has acquired or is proposing to acquire any business, a report by the Accountants named in the advertisement upon the profits of the business proposed to be

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acquired for each of the three financial years for which accounts have been made up immediately preceding the date of the advertisement.

(25) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Memorandum and Articles of Association of the company, any Statute or Orders having statutory effect affecting the company, copies of all material contracts, Trust Deed (if any) referred to in the advertisement, and copies of all the audited accounts of the company since its formation, with the Auditors' certificates, copies of all other reports and accounts referred to in the advertisement and all notes or information required to be given by the Companies Act affecting such accounts can be inspected by any member of the public during usual business hours.

*Note 1.* In the case of foreign companies, the documents to be offered for inspection will be the documents corresponding to those above mentioned in the case of British companies, and where such documents are not in the English language notarially certified translations thereof must be available for inspection.

*Note 2.* In cases where it is contended that contracts cannot be offered for inspection without disclosing to trade competitors important information which might be detrimental to the company's interests, application can be made to the Committee to dispense with the offering of such documents for inspection.

*Note 3.* In any case where information is not given under any of the above heads Nos. 11, 13, 14, 15, 16, 19, 20 and 21, the advertised particulars must state that no such payments have been made or explain why the information is not given.

## II

In the case of a company (other than a company incorporated by Special Act of Parliament); (a) no part of whose share or loan capital is already dealt in or quoted on The Stock Exchange; and (6) whose annual accounts for at least two years have been made up and audited, the statement required to be advertised by Appendix 34B must contain the following information—

- (1) How, when and where the company was incorporated.
- (2) The principal objects of the company.
- (3) In the case of a company not incorporated in the United Kingdom, whether it has or has not a place of business in the

United Kingdom and the address of the principal place of business in the United Kingdom (if any).

(4) The names, addresses and descriptions of the Directors.

(5) The name, address and professional qualification of the Auditors.

*Note.* Qualification means Chartered Accountant, Incorporated Accountant, etc.

(6) The names and addresses of the Bankers, London Brokers and Secretary and the situation of the registered office.

(7) The nominal capital of the company, the amount issued or agreed to be issued, the amount paid up and, where there is more than one class of share, the rights of each class of share as regards dividend, capital and voting.

(8) Particulars of any loan capital created and the amount issued and outstanding or agreed to be issued and of the rights conferred upon the holders thereof and the obligations undertaken by the company in respect thereof and short particulars of any mortgages and charges subsisting upon any part of the company's assets.

(9) In the case of share or loan capital issued or agreed to be issued for cash within twelve months of the date of the advertisement, the price and terms upon which the same has been or is to be issued, and if not already fully paid the dates when instalments are payable with the amount of all calls or instalments in arrear.

(10) The provisions of the Articles of Association, By-laws or other corresponding document with regard to the borrowing powers of the directors and how such borrowing powers can be varied.

(11) A statement that in the opinion of the Directors the company has sufficient working capital for the purposes of its business, or, if not, showing how the necessary working capital is to be provided.

(12) Particulars of the share or loan capital that has, within two years preceding the date of the advertisement, been issued or is proposed to be issued fully or partly paid up otherwise than in cash and the consideration for which the same has been issued or is proposed to be issued.

(13) The names and addresses of the vendors of any property purchased or acquired by the company or proposed to be purchased or acquired on capital account within two years preceding the date of the advertisement and the amount paid or payable in cash, shares or securities to the vendor and, where

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there is more than one separate vendor or the company is a sub-purchaser, the amount so paid or payable to each vendor and the amount (if any) payable for goodwill.

(14) Particulars of any commissions, discounts, brokerages or other special terms granted within two years preceding the date of the advertisement to any persons in connection with the issue or sale of any stocks, shares or securities of the company.

(15) The dates of and parties to all material contracts with a description of the nature of the contract entered into within the two years preceding the date of the advertisement not being contracts entered into in the ordinary course of the business carried on or intended to be carried on by the company.

(16) Particulars of any of the share or loan capital of the company which is under option, or agreed to be put under option, with the price and term of the option and consideration for which the option was granted.

(17) Either a copy or with the approval of the Committee a summary of the last audited Balance Sheet and Profit and Loss Account with a copy of the Auditors' certificate and any notes or observations *in* or on the Balance Sheet required to be published by any Act of Parliament relating to the company.

(18) A statement certified by the company's auditors giving particulars of the share or loan capital subscribed and the cash actually received by the company in connection therewith within twelve months preceding the date of the advertisement, also particulars of all dividends paid and amounts carried forward or carried, or proposed to be carried, to reserve out of the profits as shown in the accounts submitted to the shareholders or in the Directors' Reports attached to the Balance Sheet under Section 123 (2) of the Companies Act, 1929, in respect of each of the two financial years preceding the advertisement for which accounts have been made up and audited.

(19) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Memorandum and Articles of Association of the company, any Statute or Order having statutory effect affecting the company, copies of all material contracts, Trust Deed (if any) referred to in the advertisement, and copies of the audited accounts of the company for each of the two financial years preceding the date of the advertisement for which accounts have been made up and audited with the Auditors' certificates, copies of all other Reports and Accounts referred

to in the advertisement, and all notes or information required to be given by the Companies Act affecting such accounts can be inspected by any member of the public during usual business hours.

*Note 1.* In the case of foreign Companies the documents to be offered for inspection will be the documents corresponding to those above mentioned in the case of British Companies, and where such documents are not in the English language notarially certified translations thereof must be available for inspection.

*Note 2.* In cases where it is contended that contracts cannot be offered for inspection without disclosing to trade competitors important information which might be detrimental to the company's interests, application can be made to the Committee to dispense with the offering of such documents for inspection.

*Note 3.* In any case where information is not given under any of the above heads Nos. 12, 13, 14 and 16, the advertised particulars must state that no such payments have been made or explain why the information is not given.

### III

In the case of a company (other than a company incorporated by Special Act of Parliament) where leave to deal in or a quotation for any of its share or loan capital has already been granted, the statement required to be advertised by Appendix 34B must contain the following information—

(1) Full particulars of the further share or loan capital in which leave to deal is to be applied for, and in particular—

(a) In the case of stocks or shares the rights conferred as regards income, capital and voting. In the case of debentures, debenture stock, or securities, the rights conferred as regards income and capital, and full information as to the amount and application of any sinking fund, any right of the company to redeem before maturity, any rights of conversion, or other similar rights, and in either case the limits of the authorized issue.

(6) The price at which and terms upon which such share or loan capital has been issued or agreed to be issued and whether the same has or has not been paid up in full. If not paid in full, particulars of all payments still to be made with due dates of payment. Where any such share or loan capital has been or is to be issued in whole or in part for a consideration other than cash, full particulars of the

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consideration received or receivable by the company for the issue thereof must be given.

(c) Particulars of any commissions, discounts, brokerages, or other special terms granted to any parties in connection with the issue or sale of any such stocks, shares or securities.

(d) The dates of and parties to all material contracts affecting the issue of such share or loan capital with a description of the nature of the contract.

(e) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Memorandum and Articles of Association of the company, any Statute or Order having statutory effect affecting the company, copies of all the contracts and Trust Deed (if any) referred to in the advertisement can be inspected by any member of the public during usual business hours.

(2) Particulars of any of the share or loan capital of the company which is under option or agreed to be put under option with the price and term of option and consideration for which the same was granted.

(3) Names of the Directors of the company.

(4) Name, address and professional qualification of the Auditors of the company.

*Note.* Qualification means Chartered Accountant, Incorporated Accountant, etc.

(5) Names of London Brokers.

(6) A statement that further particulars of the company are contained in the "Stock Exchange Official Year-Book" current at the date of the publication of this advertisement.

(7) Such other information as in the circumstances of any particular case the Committee think it advisable to require.

### IV

In the case of Government and Municipal loans and issues by Statutory Boards, companies incorporated by Special Act of Parliament and other similar Authorities, the statement required to be advertised by Appendix 34B must contain the following information—

(1) Full particulars of the share or loan capital in which leave to deal is to be applied for, and in particular—

(a) The rights conferred as regards income and capital, with full information as to the amount and application of any sinking fund, any right of the Authority to redeem

before maturity, any rights of conversion, or other similar rights and the security upon which any loan is charged.

(6) The price at which and the terms upon which any such share or loan capital has been issued or agreed to be issued, and whether the same has or has not been paid up in full. If not paid in full, particulars of all payments still to be made with due dates of payment must be given.

(c) The dates of and parties to all material contracts affecting the issue of such share or loan capital with a description of the nature of the contract.

(d) A reasonable time (not being less than seven days) during which and a place in the City of London at which a copy of the Statutes, Orders, or other authorities under which the share or loan capital has been created and issued, with copies of all the material contracts, Trust Deed (if any) above referred to and, where any of the above-mentioned documents are not in the English language, notarially certified translations thereof, can be inspected by any member of the public during usual business hours.

(2) Particulars of any of the share or loan capital which is under option or agreed to be put under option with the price and terms of option and consideration for which the same was granted.

(3) Names of Directors (if any) and Auditors (if any), stating qualification.

*Note.* Qualification means Chartered Accountant, Incorporated Accountant, etc.

(4) Name and address of Secretary (if any) and situation of Chief Office (if any).

(5) Name of bankers and London brokers.

C. Where a Broker is instructed to sell on behalf of a company a further issue of stock or shares forming a part of an amount previously created (permission to deal, if necessary, having been given for the original issue) he may obtain permission to deal on presentation of a letter from the company authorizing him to make the sale, or he may sell the stock or shares previous to permission being given, provided he makes the sale subject to the permission being granted.

D. In the case of securities of a purely local nature within Great Britain or Northern Ireland or of a Dominion, Colonial or Foreign issue of which no former security has been quoted previously on a Dominion, Colonial or Foreign Exchange a broker may make a specific bargain with the authority of the Sub-Committee on New Issues and Official Quotations, but

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bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted by the Committee.

E. In the case of securities quoted on a Dominion, Colonial or Foreign Exchange or in the case of new issues where a previous issue or issues of the same Country, Corporation or company have been quoted on a Dominion, Colonial or Foreign Exchange a member may make a bargain, provided that a jobber may not make such bargain out of a market in which he acts as a jobber.

Such bargains shall not be recorded in the Supplementary List until permission to deal in the issue has been granted by the Committee.

F.

### NOTICE (Rule 159)

Committee Room,  
The Stock Exchange,  
19

Dealings in the following Securities as shown in Column (1) have been allowed by the Committee under Rule 159.

In the case of Securities marked with an asterisk dealings will not be permitted until after the issue of Letters of Allotment or Acceptance.

(1) Permission to Deal <i>Granted</i>	(2) Securities unissued or for which Permission to deal has <i>not</i> been applied for
(c) Allotted for Cash; (v) Allotted to Vendors or others for a consideration other than Cash or in exchange for Cash; (o) Allotted in pursuance of an option.	(v) Allotted to Vendors or others for a consideration other than Cash or in exchange for Cash; (o) Under option; (r) Reserved for future issue.

### MATERIAL CONDITIONS

These include the following—

The capital, dividend, voting and other rights conferred by the different classes of shares, and whether or not the shares are fully paid up, and if not, to what extent they are paid up.

The amount of shares and debentures or debenture stock that have been issued (in the case of debentures or debenture

stock, giving the rate of interest payable thereon), the dates and prices at which they have been issued, and the amounts of any underwriting or other commissions that have been paid in connection therewith.

The names and addresses of the vendors of any property purchased or acquired by the company or proposed so to be purchased or acquired and the amount payable in cash, shares or debentures to the vendor, or any other consideration for the sale, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount or consideration so payable or granted to each vendor.

The amount or estimated amount of the preliminary expenses.

Full particulars of the value and extent of the interest of every Director in the promotion of or the property proposed to be acquired by the company or in any profit made by any vendor or promoter with a statement of the amount paid or agreed to be made to any Director or to his firm or any company in which he is interested either to qualify him or to induce him to become a director or otherwise for services rendered by him.

The names and parties to every material contract and the place where they can be inspected.

The Memorandum and Articles of Association (and Trust Deed if the issue relates to debentures or debenture stock) must be open for inspection at the same time and place.

Whether any shares are under option, and if so, at what prices, when such options expire and the consideration (if any) given for such options.

Particulars as to qualification and remuneration of Directors.

#### OFFICIAL QUOTATIONS

##### A. *Conditions precedent to an Application for Official Quotation*

(Rule 162)

1. That the Memorandum, Articles of Association, By-Laws or Charter of Incorporation, and Trust Deed (in the case of an application for debentures or debenture stock so secured), or other authority under which the share or loan capital has been created and issued, shall be in a form approved by the Committee.

2. That the Stock Certificate, Share Certificate, Debenture, Bond or other document representing the security shall be in a form approved by the Committee.

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*Note.* The relevant documents referred to in 1 and 2 above must be submitted (in duplicate) to the Secretary of the Share and Loan Department for approval before application for Official Quotation is formally made.

3. That permission to deal in the security shall have been given or that (prior to August, 1914) a Special Settling Day in the security had been fixed. In the case of securities dealt in prior to August, 1914, and for which no Special Settling Day had been fixed, or permission to deal granted, enquiry should first be made of the Secretary of the Share and Loan Department to ascertain the requirements under this heading.

4. That two-thirds of the issue for which application for quotation is made, whether such issue be the whole or part of the authorized amount, shall have been applied for by and unconditionally allotted to the public, any part of the issue made in lieu of money payments not being considered to form part of the public allotment.

5. That the Definitive Stock or Share Certificate, Debenture Bond or other security shall have been or shall be ready to be delivered.

6. That at least the first Annual Report and Accounts shall have been issued. (This condition does not apply to Government and Municipal Loans and the like.)

7. That there is sufficient public interest in the Security, and that it is of sufficient magnitude and importance.

### *B. ARTICLES OF ASSOCIATION*

Articles of Association must contain provisions to the following effect—

1. That Directors must hold a share qualification which must not be merely nominal.

2. That the borrowing powers of the Board are limited to a reasonable amount.

3. That the non-forfeiture of dividends is secured.

4. That the common form of transfer shall be used, and that there shall not be any restriction on the transfer of fully-paid shares.

5. That all forms of certificate for shares, stock, debenture stock, or representing any other form of security (other than Letters of Allotment or Scrip Certificates) shall be issued under the Common Seal of the company, and shall bear the autographic signatures of one or more Directors and the Secretary.

6. That fully-paid shares shall be free from all lien.

7. That a Director shall not vote on any contract in which

he is interested and if he do so vote, his vote shall not be counted.

8. That the Directors shall have power at any time and from time to time to appoint any other person as a Director either to fill a casual vacancy or as an addition to the Board, but so that the total number of Directors shall not at any time exceed the maximum number authorized by the Articles of Association; but that any Director so appointed shall hold office only until the next following Ordinary General Meeting of the company and shall then be eligible for re-election.

9. That the company in General Meeting shall have power by extraordinary resolution to remove any Director before the expiration of his period of office.

10. That a printed copy of the Report, accompanied by the Balance Sheet (including every document required by law to be annexed thereto) and Profit and Loss Account or Income and Expenditure Account, shall at least seven days previous to the General Meeting, be delivered or sent by post to the registered address of every member, and that three copies of each of these documents shall at the same time be forwarded to the Secretary of the Share and Loan Department, The Stock Exchange, London.

11. That any amount paid up in advance of calls on any share shall carry interest only and shall not entitle the holder of the share to participate in respect thereof in a dividend subsequently declared.

12. That where a company takes power to refuse to register more than three persons as joint holders of a share such power shall not apply to the executors or trustees of a deceased holder.

13. That the charge for a new Share Certificate issued to replace one that has been worn out, lost, or destroyed, shall not exceed one shilling.

*Note.* The above requirements are not exhaustive. The Committee will take exception to any provisions contained in the Articles of Association which may, in any way, restrict free dealings in the shares or which may, in the Committee's opinion, be unreasonable in the case of a public company.

### C. TRUST DEEDS AND DEBENTURES NOT SECURED BY TRUST DEED

Trust Deeds and debentures not secured by a Trust Deed must contain provisions to the following effect—

1. Where provision is made that the security shall be repayable at a premium either at a fixed date or at any time upon notice having been given, it must be provided that, should the

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company go into voluntary liquidation, the security shall not be repayable at less than the premium then current.

2. That any new Trustee appointed under any statutory or other power must prior to appointment be approved by a resolution of the debenture (or debenture stock) holders by extraordinary resolution. A corporation or company may be appointed a Trustee. Except where the Trustee or one of the Trustees is a Body Corporate, the Trust Deed shall provide that there shall always be at least two Trustees.

3. That a meeting of debenture (or debenture stock) holders must be called on a requisition in writing signed by holders of at least one-tenth of the nominal amount of the debenture (or debenture stock) for the time being outstanding.

4. The clause defining an extraordinary resolution must provide—

(i) That the quorum for passing such resolution shall be the holders of a clear majority in value of the whole of the outstanding debentures (or debenture stock) present in person or by proxy. If such a quorum be not obtained, provision may be made for the adjournment of the meeting for not less than fourteen days, and in that event that notice of the adjourned meeting shall be sent to every debenture (or debenture stock) holder, and that such notice shall state that if a quorum as above defined shall not be present at the adjourned meeting, the debenture (or debenture stock) holders then present will form a quorum.

(ii) That the necessary majority for passing an extraordinary resolution shall be not less than three-fourths of the persons voting thereat on a show of hands and if a poll is demanded then not less than three-fourths of the votes given on such a poll.

(iii) That on a poll, each holder of debentures or debenture stock shall be entitled to at least one vote in respect of every £10 of debentures or debenture stock held by him, except that where the lowest denomination in which such securities can be transferred is more than £10, such denomination may be substituted for the £10 above referred to.

5. That on any payment off of part of the amount due on the security, unless a new document is issued, a note of such payment shall be enfaced (not endorsed) on the document.

6. That in the case of a registered security the common form transfer shall be used and the fee for a new registered debenture or debenture stock certificate to replace one that has been worn out, lost or destroyed shall not exceed one shilling.

7. In the case of securities which are entitled "Mortgage\*" it is essential that the same should be secured to a substantial extent by a direct specific mortgage on freehold or long leasehold estate or other immovable property or on ships. In the case of debentures or debenture stocks, or other issues which will constitute an unsecured liability, it is essential that the same should be entitled "unsecured."

*Note.* The above requirements are not exhaustive. The Committee will take exception to any provision contained in the Trust Deed or debentures which may, in any way, restrict free dealings or which may, in the Committee's opinion, be unreasonable in the case of a security to be included in the Official List.

#### D. DEFINITIVE DOCUMENTS

##### I. SHARE AND STOCK CERTIFICATES AND DEBENTURES

1. All certificates or debentures must state on their face the authority under which the company is constituted and the amount of Authorized Capital of the company.

2. All registered certificates or debentures must bear a footnote that no transfer of any portion of the holding can be registered without the production of the certificate.

3. Where the capital of the company consists of more than one class of shares of the same denomination, the distinctive numbers of the shares of each class must be printed on the face of the share certificates.

4. All certificates and debentures must be under seal and bear the requisite autographic signatures.

5. All preference share (or stock) certificates must, in addition, bear (preferably on their face) a statement of the conditions both as to capital and dividends and redemption (if any) under which the security is issued.

6. Debentures and debenture stock certificates must state, in addition, on their face, the dates when the interest is payable and the authority under which the issue is made (i.e. Articles of Association and resolutions of shareholders and directors) and on their back all conditions of the issue, as to redemption, conversion and transfer.

##### n. BONDS

1. Bonds must specify the amount and conditions of the loan and the powers under which it has been contracted.

2. Bonds of English companies must be under the Common Seal and bear the requisite autographic signatures.

3. When an issue of Dominion, Colonial or Foreign bonds

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is made wholly or partly in London, those issued in London must bear the autographic counter-signature of the London Agents or Contractors.

4. Bonds quoted abroad must bear the autographic signature of some properly authorized person and evidence of his authority must also be furnished.

*E.* On receipt of intimation that the relevant documents submitted to the Secretary of the Share and Loan Department and referred to in A, 1 and 2, are in order, and on written request to the Secretary of the Share and Loan Department giving particulars of the security for which official quotation is desired, an application form will be provided which must be signed, and a note of the further requirements of the Committee will then be supplied by the Share and Loan Department. These further requirements will include—

1. Production of the Certificate of Incorporation and Certificate that the company is entitled to commence business (unless previously exhibited).

2. A certified copy of the Memorandum and Articles of Association, or Act of Parliament or any other relative documents affecting the constitution of the company, and, in the case of debenture stock or debentures, a certified copy of the Trust Deed (if any) securing the same must be supplied and the Official Certificate showing that the requirements of the Companies Act with regard to the registration of charges have been complied with, must be produced.

*Note.* In the case of Foreign Companies, notarially certified copies of the corresponding documents to those above referred to will be required, and in the case of issues of debentures or debenture stock of foreign companies, evidence must be furnished as to the requirements of the foreign law with regard to the registration of mortgages and charges and compliance therewith.

3. Certified copies of all prospectuses, offers for sale, advertisements under Appendix 34B, circulars issued, or resolutions passed.

4. Certified copies of the definitive document and temporary documents.

5. Certified copies of all material contracts, agreements, concessions and other similar documents.

6. Certified copy of the last published Report and Accounts.

7. A short written history of the company setting forth its origin, progress, dividends, particulars as to the various issues of shares, etc.; the number of transfers registered during the

preceding twelve months, and the number of shares (or amount of stock) represented by such transfers.

8. A Statutory Declaration by the Chairman and Secretary to the effect that—

(a) All the legal requirements have been complied with, and all documents required to be filed have been duly filed with the Registrar of Companies. In the case of an English company charging property abroad, that the necessary mortgage has been properly legalized and registered in the country where the property is situated.

(b) The number (or amount of stock) of shares, debentures or bonds applied for by the public, the number (or amount of stock) of shares, debentures or bonds unconditionally allotted to the public and the amount per share (or £ per cent) paid thereon in cash, and the number (or amount of stock) of shares, debentures or bonds allotted for a consideration other than cash. Where any calls or instalments are in arrear particulars must be given.

(c) That the definitive documents have been or are ready to be delivered, that the purchase of the property has been completed and the purchase money paid; that the whole of the shares, debentures (or stock) are (or is) in all respects identical.\* (If applicable) That a Trust Deed has been executed and completed and the effect thereof and the nature of the charge created thereby.

(d) In the case of an issue of stock, registered debentures, or bonds, the total number of allottees and the largest amount applied for by and allotted to any one applicant.

\* A statement that shares are in all respects identical is understood to mean that—

They are of the same nominal value, and that the same amount per share has been called up.

They carry the same rights as to unrestricted transfer, attendance and voting at meetings, and in all other respects.

They are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution the dividend payable on each share will amount to exactly the same sum.

A statement that stock is in all respects identical is understood to mean—

All the stock is entitled to the same rights as to unrestricted transfer, and in all other respects.

All the stock is entitled to dividend at the same rate and

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for the same period, so that at the next ensuing distribution the dividend payable on each £100 Stock will amount to exactly the same sum.

9. A certified copy of the Register of Share, Stock, or Debenture Holders (names, addresses and holdings), with a statement of the total number of share, stock, or debenture holders and the ten largest holdings of each class. In cases where there are a very large number of share, stock, or debenture holders, the Committee may not require a certified copy of the Register.

10. An undertaking under the seal of the company forthwith upon any alteration being made in the Memorandum or Articles of Association, Act of Parliament or any other document affecting the constitution of the company, or in the form of any Trust Deed securing debentures or debenture stock or in any debentures, to send to the Secretary of the Share and Loan Department full information of the effect of such alteration and certified copies of all material documents relating thereto and contemporaneously with the issue of any further shares or loan capital of the company, whether the same is for public subscription or not, to advise the Secretary of the Share and Loan Department thereof and to furnish him with all such particulars relating thereto as the Committee may require.

11. A letter nominating a broker, a member of the Stock Exchange, to represent the interests of the company before the Committee.

12. In the case of an issue of a Government, Municipal, Dominion, Colonial and Foreign Loan—

(a) Authority of the issuing house to receive subscriptions, and

(6) In addition, in the case of Dominion, Colonial and Foreign Loans, evidence that the bonds of the loan bear the autographic signature of some properly authorized person, whose specimen signature and authorization must be supplied for retention by the Department.

13. In the case of a reconstructed company, a short history of the old and new company, and certified copy of the Scheme of Reconstruction, and evidence that any necessary Orders of Court have been obtained.

14. In the case of Dominion, Colonial and Foreign securities quoted abroad, official evidence of quotation in the country of their origin or where the issue has been made.

15. Documents not in the English language must be accompanied by notarially certified translations.

It is not sufficient merely to obtain permission to deal on the Stock Exchange. Arrangements should also be made by the sponsors of the issue, through the brokers, for jobbers in the appropriate market to deal and to make prices. Where the issue is not a large one, widely spread, it may be desirable for someone, e.g. the issuing house, to stand behind the market (acting, in City slang, as "the shop") prepared, at all times, to take shares that are offered or supply them to the market at a reasonable price. Otherwise, it may be found in practice that the market is apt to dry up from a lack of ability or desire on the part of jobbers to take shares on their books, which leads to delay in dealings when it is desired either to buy or to sell the securities.

While it is often said (and with some truth) that market dealings are not the concern of the directors, it is none the less in the interests of the company that all reasonable facilities for dealing should be afforded, and directors who take steps to see that these facilities are afforded, while, at the same time, refraining from giving any encouragement to undue speculation in the securities, will consequently be promoting their companies' interests.

## CHAPTER VII

### ISSUE OF LETTERS OF ALLOTMENT

THE following is a common form of application—

*Form of Application for  $\frac{\text{shares}}{\text{debenture stock}}$ .*

No.

THE BLANK COMPANY, LIMITED

(incorporated under the Companies Act, 1929).

Share Capital, £

Divided into \_\_\_\_\_ shares of \_\_\_\_\_ each.

Issue of \_\_\_\_\_ shares of \_\_\_\_\_ each at \_\_\_\_\_  
debenture stock at \_\_\_\_\_

To the Directors of

The Blank Company, Limited.

Gentlemen,

Having paid to the Company's Bankers the sum of  
£ \_\_\_\_\_ being a deposit of  $\frac{\text{per share}}{\text{per cent}}$  on  
application for \_\_\_\_\_ of the above-mentioned  $\frac{\text{shares of each}}{\text{debenture stock}}$   
in the above-named company, I/we request you to allot  
to me/us that  $\frac{\text{number of shares at}}{\text{amount of debenture stock at}}$  \_\_\_\_\_ and

I/we hereby agree to accept the same or any less  $\frac{\text{number}}{\text{amount}}$  that  
you may allot to me/us upon the terms of the Company's  
prospectus, dated \_\_\_\_\_ as filed with the Regis-  
trar of Joint Stock Companies and of the Memorandum and  
Articles of Association of the Company and to pay the balance  
of \_\_\_\_\_ by the instalments as specified in the said  
Prospectus; and I/we authorize you to place my/our name(s)

on the Register of Members  
Debenture-stock holders as the holder(s) of  
the shares  
debenture stock so allotted to me/us.

Usual Signature

Please  
write  
distinctly

{ Name in full  
*(Block letters)*

{ Address in full

{ Occupation or Description  
*(A lady should state whether she is a Spinster,  
Wife or Widow)*

{ Date

This form, when filled up, should be forwarded entire to  
Bank, (address)  
or any of the branches, together with a remittance for the  
amount payable on application. Cheques should be made  
payable to Bank or Bearer and crossed "Not  
Negotiable." Any alteration from "Order" to "Bearer"  
should be signed by the drawer.

No receipt will be issued for the payment on application,  
but an acknowledgment will be forwarded in due course,  
either by letter of allotment, in whole or in part, or by return  
of deposit.

The completion and delivery of the form of  
application constitutes an offer, the contract  
to take the shares or stock being completed  
by the delivery of the letter of allotment.  
Delivery of the letter of allotment, with the  
postage prepaid, to the postal authorities for  
transmission to the applicant is delivery to  
the applicant, the postal authorities then  
becoming the applicant's agent for delivery  
of the communication.

The offer to take shares or debentures can,



The amount now due should be paid forthwith. The balance of \_\_\_\_\_, to make the shares fully paid, viz. £ \_\_\_\_\_ is due on \_\_\_\_\_.

Interest at the rate of \_\_\_\_\_ per cent per annum may be charged on amounts not paid on their due date, and failure to pay them when due renders the shares and all previous payments liable to forfeiture.

Renunciation of allotment may be effected after payment of the amount due on allotment by the use of the form of renunciation on the back hereof, which must be signed by the allottee and the registration application form must be signed by the party in whose favour the allotment is renounced after being presented to the company.

If it is desired to renounce a part of the shares only, split letters of allotment must be obtained and these will be issued on application up to \_\_\_\_\_ 193\_\_\_\_\_, at a charge of Is. \_\_\_\_\_ for each split form, at the Company's Office at \_\_\_\_\_, after payment of the amount due on allotment, in exchange for this letter of allotment.

The surrender of this letter of allotment to the Company with the form of renunciation, purporting to be signed by the allottee, shall be conclusive evidence in favour of the Company of the title of the party depositing this letter of allotment to deal with the same and to receive split letters of allotment or the share certificates.

By Order of the Board,  
Yours faithfully,

Secretary.

This form, with remittance, should be forwarded *entire* to the Company's Office at \_\_\_\_\_ and it will be returned, duly receipted. It should be carefully preserved to be exchanged for the relative fully-paid share certificate on or after \_\_\_\_\_ 193\_\_\_\_\_.

Cheques should be made payable to "bearer" and crossed "Not negotiable, Account The Blank Company Limited." If altered from "Order" to "Bearer," the alteration should be signed by the drawer.

Received for account of the Blank Company Limited, the amount duo on allotment.

Date .....

---

Received for account of the Blank Company, Limited, the final payment due on

Date . . . . .

---

No.		No.	
The Blank Company Limited.		The Blank Company Limited.	
Final Payment.		Allotment Payment.	
£	Date	£	Date

These must be stamped with an impressed stamp of 6d. (or 1d. where the nominal amount allotted is less than £5).

Where a form of renunciation is not printed on the reverse, some adjustment of the form will be necessary.

Except for a printed signature, allotment letters are frequently unsigned, but, in view of the fact that renounced allotment letters circulate on the Stock Exchange as bearer documents until the final date for registering them has expired, it would seem advisable that the secretary's signature should at least be lithographed and bear a counter-signature as a safeguard against forgery.

The use of different coloured paper may be recommended, where there are different classes of shares.

## CHAPTER VIII

### DEALING WITH APPLICATIONS

FOR the reasons previously stated, applications should be dealt with very promptly. Whenever there is a rush to take up an issue, applicants naturally wish to know their fate as soon as possible, and, if an allotment is not made, to receive back their application deposit, and, for this reason and for the more practical one of avoiding as far as possible effective withdrawals, issuing houses vie with one another for the prompt posting of letters of allotment. A reputation for the prompt dispatch of allotments implies a sound organization for dealing with the work, which, in the case of a popular issue, is considerable.

The usual method is to employ a large staff of clerks, who list the applications on to sheets specially ruled for the purpose with columns for—

Application No.  
Allotment No.  
Name  
Address  
Description  
Number of shares (or amount of stock) applied for.  
Application Deposit.  
Number of shares (or amount of stock) allotted.  
Distinctive numbers of shares.  
Total payable on application and allotment.  
Balance payable on allotment.  
Balance returnable.  
Final instalment.  
Remarks.

The deposits shown on the application forms must be carefully checked with the amounts received by the Bank, and the lists are then gone through by the directors for the making of the allotments, the allotment letters being then prepared from the sheets.

In order that the work of carrying out the allotment may proceed smoothly and the allotment letters be posted at the earliest possible moment, a sound organization is essential. Without this, there is grave danger of chaos, where any considerable number of applications has to be handled.

The routine must provide for concise information being available promptly as to the number of applicants for varying units of shares or stock as well as the total applications. There must also be ability to trace instantly any individual applicant who withdraws or in respect of whom some query may arise.

The manager responsible for the work must be thoroughly conversant with the contents of the prospectus and with the various forms in use, the design of which should have been passed by him beforehand, in order that the work may be facilitated.

Immediately the application forms are received from the company's bankers, they should be scrutinized by a responsible senior clerk to see that they are in order and checked

off with the list supplied by the bank. Queries arising through forms not being in order should be dealt with immediately.

Where the application deposit is deficient, it is best to cut down the number of shares (or the amount of stock) applied for, unless immediate touch can be made with the applicant, in which case he may be allowed to give a cheque for the balance of the deposit. Where the application deposit has been overpaid, the application should be allowed to stand, but careful note must be made of the fact, for adjustment on the summary agreeing the total deposit money with the applications.

In the case of other queries, e.g. omission of address, failure to sign forms, etc., these can sometimes be cleared up with brokers, if a brokers' stamp appears on the form. The easiest way of dealing with such queries is to treat the applications as withdrawn, and this course may be adopted if there is over-subscription. Where, however, it is desired to include the applications for allotment, every effort must be made to get the applications in order, but on no account must the allotment be held up for such matters.

As soon as the applications have been passed as in order, they should be handed out for sorting into the various units applied for—all applications for 5 shares being placed in alphabetical order, all applications for ten

shares being similarly sorted and so on. This facilitates the preparation of summaries and tracing of any individual application which may be withdrawn prior to allotment.

When this work is complete, the forms can be recorded on the sheets and a full summary of the applications prepared and agreed with the bank statement. This summary will take the following form—

	.....applications for 5 shares = ..... „ „ 10 „ = ..... etc.	_____ _____
Total	_____ applications for	_____
Deposits received at	per share = £	

(Here will follow any necessary reconciliation through withdrawn applications—which will be omitted—or through applicants having overpaid deposits. Applicants who have short-paid deposits will have had their applications cut down.)

Where applicants on special forms have been promised preferential consideration, two sets of forms and two summaries should be prepared. The totals of the two summaries will then need to be added together to get agreement with the bank statement.

Although this system is in many respects the best and, with adequate staff and organization, can be carried out with a reasonable degree of promptitude, it is, perhaps, a little cumbersome and apt to lead to errors in

names and addresses through the somewhat unnecessary listing of the names on to sheets. In order to reduce the work to an absolute minimum, use can be made of the application forms themselves as the application and allotment lists.

For this purpose, it is convenient to have printed at the foot of the application form the following additional wording—

This part is for office use only.

No. of shares allotted

Distinctive Numbers

Amount due on allotment

Amount returnable

Final instalment

The summary (or summaries) will then be prepared from the forms themselves. (In the preparation of the summary, the use of a calculating machine may be found helpful.)

The directors can then meet within an hour or two of the closing of the lists, and decide on the method of allotment from the summaries. As soon as this has been done, the allotments, the amounts payable on allotment and the other requisite details can be entered in the appropriate spaces on the application

forms and the letters of allotment prepared direct therefrom.

When these have been carefully checked, they can be posted in window envelopes. A list of allotments can then be prepared at comparative leisure, after the letters have been posted.

Where over-subscription takes place, the method of allotment depends on the views of the directors. In most cases, a percentage is allotted, which may vary with the amount applied for, small applicants receiving more favourable consideration than large ones, though sometimes small applicants are entirely ruled out. Where over-subscription is very large, a ballot is sometimes resorted to, but this frequently gives rise to dissatisfaction. Indeed, in the case of heavy over-subscription, it is by no means easy to devise a method of allotment that will not give rise to some criticism. The points that should be borne in mind are—

(1) it is a source of strength and stability for the holdings to be widely spread; but

(2) it is uneconomical to overdo it and so get an enormous number of very small holdings, thus unduly adding to the cost of circularization and payment of dividends, and to the work of the registration department; and

(3) applicants should be left with the feeling that they have been treated fairly.

Sometimes, directors initial certain applications for special consideration in allotment, but this course is to be deprecated. It is much better that one basis (or two bases where a class have been promised preferential consideration if applying on a special form) be adopted. This will obviate any charge of favouritism and will considerably facilitate the work of allotment.

In the case of applicants receiving no allotment, their deposits must, of course, be returned in full, and this should be done as speedily as possible. It is recommended that the return of such deposits should be made simultaneously with the posting of the allotment letters, if practicable, and, where this cannot be carried out, the return should be effected as soon as possible thereafter, a notice being sent to the newspapers of the basis of the allotment, so that applicants may know the position. A printed letter will accompany the return of the deposits regretting the inability to make an allotment, owing to the heavy over-subscription.

"Each share in a company having a share capital shall be distinguished by its appropriate number" (Section 62 (2) C.A., 1929). The distinguishing numbers of each holding will appear in the Register of Members, on share certificates, transfers of shares, etc. In order to reduce the work thereby involved, it is becoming increasingly common for large

companies to convert their shares into stock, which are then transferable in units of a similar denomination. These stock units will not require distinguishing numbers, but the power to convert shares into stock is restricted to "paid-up shares" (Section 50); the power does not extend to partly-paid shares. For practical purposes, there is no substantial difference between a fully-paid share and a stock unit.

A married woman can hold property in her own right and contract on her own behalf, so that no objection will be taken to applications from married women.

The question of applications by minors is one of difficulty. There is nothing in law to prevent a minor from being registered as a shareholder or debenture-holder, but if an action is brought against him for calls he could plead his infancy and repudiate the shares or debentures and, even after attaining full age, could repudiate the contract. A company is well advised, therefore, not to accept an application from a minor, if it is aware of his infancy, and application forms sometimes contain the phrase "being of full age" before the words "hereby request that you will allot." If a minor represents that he is of full age, he could still repudiate, but would be liable for misrepresentation.

Trouble may also arise from applications being signed by another person on behalf of

the apphcant, without his authority. To reject all such applications is not generally a practicable proposition, but, if the issue is a doubtful one or if any part of the liability is to be deferred for any long period, it is safer to have the applicant's signed confirmation that the application was properly made on his behalf.

Difficulty may also arise through applications being made in fictitious names. This is sometimes resorted to by "stags" of a popular issue, who hope thereby to obtain a larger aggregate allotment than they might get by making one large application. Where a shareholder is placed on the Register in a fictitious name, the remedy is by application to the Court for a rectification of the Register by substitution of the real owner's name.

From time to time, efforts are made to track down "stag" applicants (whose only intention in applying is to snatch a quick turn immediately after allotment), but no sound method of distinguishing them from genuine investors has been found. In any case, although they are sometimes troublesome, it is doubtful whether their elimination would be an unmixed blessing.

Section 41 of the Companies Act, 1929, sets out that an allotment of shares in contravention of the provisions contained in Sections 39 and 40 "shall be voidable at the instance of the apphcant within one month

after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up."

Section 39 prohibits the allotment of any share capital offered to the public for the first time for subscription unless the minimum subscription as set out in the prospectus is subscribed and the sum payable on application therefor "which shall not be less than five per cent of the nominal amount of the share" has been received by the company, while Section 40 prohibits the allotment of shares or debentures in the case of a public company which has not issued a prospectus on formation (or which, having issued such a prospectus, has not proceeded to allot any of the shares offered to the public for subscription) unless a statement in lieu of prospectus has been delivered to the Registrar at least three days beforehand.

For the purpose of deciding whether the sum payable on application on the minimum subscription has been received, "a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company

and the directors of the company have no reason for suspecting that the cheque will not be paid."

In the case of an issue of debentures or debenture stock, frequently scrip to bearer is issued to applicants before all instalments are payable, the debentures themselves or the debenture stock certificates being subsequently issued against the fully-paid scrip. This scrip may have attached to it a coupon for the first payment of interest, where this will become payable before the definitive debentures or certificates will be ready for issue.

## CHAPTER IX

### WORK SUBSEQUENT TO ALLOTMENT

As soon as the allotment letters have been posted, those in charge of the work will be able to deal somewhat more leisurely with the many matters still requiring attention.

Amongst the first of these will be to pay the underwriting commissions and brokerage. Where allotments have had to be made to underwriters, the payment of the commission is usually held back until the amount due on allotment has been paid; otherwise, it is customarily payable within seven days, and it is desirable to pay it even sooner, prompt payment promoting cordial relations between the underwriters and the issuing house.

Brokerage similarly should be paid promptly. Lists of those to whom brokerage is due will be prepared from an examination of the forms of application. Where the applications have been listed on to sheets, a note should have been made in the "remarks" column of the names of brokers and others entitled to brokerage, whose rubber stamps appear on the forms, or who have had their initials printed on the forms issued by them.

Prospectuses usually provide that brokerage is payable to brokers, bankers or other

recognized agents, but occasionally the payment of brokerage is confined to bankers and members of the Stock Exchange, other financial houses being ruled out. This course gives rise to bad feeling on the part of reputable firms of "outside" brokers and financial houses, whose help in the placing of issues is frequently a matter of consequence and with whom good relations should consequently be cultivated.

Meanwhile, applications will be received for the splitting of allotment letters, the original allotment letter being returned for cancellation and exchange for split letters in the denominations required by the allottee. These are required where the original allottee desires to retain only a portion of the shares allotted to him or to pass the allotment to others in a split form.

It is not usual to split before payment of the amount due on allotment and it is customary to make a charge of Is. for each split allotment letter issued. These splits will only be required where renunciation of allotment is permitted. The original letter of allotment should be renounced, and the split letters will then be stamped by the company "Original duly renounced." It is best to give the split letters the same distinguishing number as the original allotment letter, adding the letters "a," "b," "c," etc., to the different splits, and to mark them plainly SPLIT with a rubber

stamp. To avoid complication, it is usual to decline to split again, once an original letter has been split.

A proper system for recording the splits issued should be in force. For this purpose, it is convenient to enter on to a separate sheet the essential particulars of the split letters issued in respect of each original allotment letter cancelled, marking the entry on the original allotment sheet (or the office particulars on the application form, where these forms are being made use of in place of listed sheets) with the word SPLIT. If listed sheets are being used, the split sheets should be kept in numerical order, so that they can be easily traced. Where the application forms are being used as the record of allotments and provisional register, the splits sheets should be attached to the appropriate application form.

As the registration application forms are received, these, before being marked as having been registered, will be carefully recorded on the splits sheets, so that all information is readily available for writing up the share register in permanent form, after which the sheets and forms should be filed.

A suitable splits sheet for use is shown on p. 73.

Ample room should be left for recording the name, address and description of the registered applicant, which will be filled in

No.....

SPLITS SHEET

Name, address and description of Original Allottee.

.....  
 .....

Split into—

Distinguishing Letter	No. of shares or amount of stock	Distinctive numbers	Final instalment	Name, address and description of registered applicant

only when the registration application is received for noting.

Somewhat similar sheets can be used for recording registration applications in the name of some person other than the original allottee, even where splits have not been required.

When the date has expired within which registration applications in respect of renounced allotments should be lodged with the company, registration will be effected in the name of the original allottee in all cases where no registration application has been received.

As soon as the names of those to be registered have been ascertained, the work of preparing the share certificates and writing up the share register should be proceeded with.

# CHAPTER X

## RENUNCIATION LETTERS

A SYSTEM has grown up of recent years of giving allottees the right, for a limited period, of renouncing their allotments, and it is now common for a form of renunciation to be printed on the reverse side of the letter of allotment in the following form—

*Letter of Renunciation*

Available until 193 .

To the Directors of

The Blank Company Limited.

I/We hereby renounce my/our right to the within-mentioned shares allotted to me/us in favour of the party signing the acceptance at foot.

Signature of Allottee

Affix stamp.  
If nominal  
value of shares  
allotted is £5  
or over—6d.  
Under £5—Id.

Dated 193 .

*Note.* If the shares are renounced, the above form of renunciation must be signed over the appropriate stamp by the allottee. In case of joint account, all the persons named in such account must sign the renunciation.

*Important.* In cases where it is desired to renounce to more than one person, or part of the shares only, the within-named letter of allotment will, on application to the company before the 193 , and after payment of the allotment money, be split.

A fee of Is. is payable for each split allotment letter required.

*Registration Application Form*

(To be signed *only* by the persons to whom the shares are renounced.)

I/We hereby request you to register the within-mentioned shares in my/our name(s) and agree to accept the same subject to the Memorandum and Articles of Association, and agree to pay the balance of \_\_\_\_\_ per share due on

Usual Signature

*Please  
write  
distinctly* { Full Name  
Address  
Description  
Date

Unless this form, duly filled up and signed by the allottee(s) and by the party or parties in whose name (s) the shares are to be registered is lodged at the Company's office at

\_\_\_\_\_ on or before \_\_\_\_\_ 193\_\_\_\_, the shares to which this Allotment Letter relates will be registered in the name(s) of the original allottee(s) and thereafter it will only be possible to transfer such shares by transfer on the ordinary common form.

*Important.* It is *not* necessary for the original allottee to sign either of the above forms if such allottee desires to be registered as the holder of the shares, but he should retain this document intact to be exchanged for the share certificate when ready.

Allotments are treated as provisional until the date within which they may be renounced has expired, when the final list of those to be entered on the share register can be prepared, the names of the persons in whose favour shares have been renounced and who have presented the registration application to the company for noting being substituted for the names of the original allottees.

Until recently, it was the practice not to include on the return of allotments the names of original allottees who had renounced but to substitute the names of those in whose favour the renunciation had been made.

Some curious questions arose out of this system. For instance, Section 42 of the C.A., 1929, provides that a return of allotments must be delivered to the Registrar of Companies within one month of the allotment, and "every director, manager, secretary, or other officer of the company, who is knowingly a party to the default, shall be liable to a fine not exceeding fifty pounds for every day during which the default continues."

It is obvious that the return of allotments could not be prepared until the time for renunciation had passed, and, if one month or more was allowed for renunciation, the return of allotments could not be made within the period laid down in the Act, and it was consequently the rule, rather than the exception, for the time limit for delivering the return of allotments to the Registrar to be exceeded. The writer is not aware of any case in which proceedings were taken in consequence of the delivery of the return of allotments having been delayed on these grounds, but it is obvious that the system gave rise to some risk, although apparently sanctioned by the Registrar of Companies who took the view that the return "should be compiled at the date

when the company is in a position to know who are the persons who have accepted an allotment with a view to becoming members of the company."

Another curious point is that the return of allotments might include the name of an investment trust which did not exist at the time of allotment, a person who was perhaps a minor and only became capable of entering into an enforceable contract to take shares at a later date, or a lady in her married name who was, in fact, a spinster when allotment took place.

The matter has recently been reconsidered by the Registrar who now takes the view that the return should be "of the persons to whom the original letters of allotment were addressed and of the shares respectively thereby allotted/" The result is that returns as now made contain the names of persons whose names are never entered in the Register of Members by reason of the fact that they have renounced their rights.

# CHAPTER XI

## RIGHTS LETTERS

FREQUENTLY shares (and sometimes debentures) are issued at an attractive price to existing shareholders in the same, or, possibly, in another company. Such issues may take the form of an invitation to apply, allotment being made upon receipt of the application, or they may take the form of the issue of a conditional letter of allotment, the contract being completed by the shareholder accepting the allotment.

The following is a form of rights letter (being an invitation to apply)—

These rights are of value. Shareholders not wishing to apply or in doubt as to how to act should consult their stock-brokers.

The Blank Company Limited

Authorized Capital £  
divided into                      shares of  
each, of which                      shares have been issued  
and are fully paid up.

Further issue of                      shares of                      each at the  
price of                      per share.

(Address)

193 .

To the Shareholder whose name and address are written in the bordered space on the reverse of this letter.

Dear Sir (or Madam),

Your present holding and the extent of your right to participate in the above-mentioned issue, in accordance with the company's circular of this date, are specified on the reverse of this letter opposite your name and address.

If you intend to take up the shares to which you are entitled, kindly fill up and sign the form of acceptance (Form B) and forward the entire sheet with the necessary remittance to the company's bankers, Bank (Address), to be received by them not later than .

If you desire to renounce your rights in favour of some other person, you should sign the form of renunciation and nomination (Form A) as set out on the reverse of this letter, and your nominee(s), who must be of full age, must (instead of you) then fill up and sign the acceptance form and forward the entire sheet with the necessary remittance as directed in the preceding paragraph.

Should you elect to divide your rights, the entire form should be deposited at the company's office to be cancelled and exchanged for split forms at a charge of Is. for each split form issued.

If the conditions as to acceptance and payment are not duly observed, your rights to participate in the above-mentioned issue will be absolutely forfeited and the directors will deal with the shares for the benefit of the company at their discretion.

Yours faithfully,

.....  
Secretary.

(Reverse side)

The Blank Company Limited.

┌	┐	No. Present holding shares. Entitled to a <i>pro rata</i> allotment of shares. <i>Joint Share- holders (if any).</i> <i>Names only.</i>
└	┘	}

FORM " A "

Form of Renunciation and Nomination, to be signed by the Shareholder only if the Rights are renounced.

To the Directors of  
The Blank Company Limited.

I/We hereby renounce my/our right to the above-mentioned new Shares and nominate the party signing the acceptance at

80 ISSUE OF SHARES, DEBENTURES, BONDS

foot to have all the benefits of the offer contained in your circular, dated

Signature of Shareholder

Affix stamp. If nominal value of shares allotted is £5 or over — 6d. Under £5 — 1d.

Date 193 .

FORM " B "

Form of Acceptance to be signed by the Shareholder or Nominee.

To the Directors of

The Blank Company Limited

Having paid to your Bankers the sum of £ (being the First Instalment at the rate of per Share) in respect of Shares referred to in the within letter, I/we, the above-mentioned Shareholders(s)/Nominee(s), hereby accept your offer of the said Shares pursuant to the Memorandum and Articles of Association of the Company and subject to the terms and conditions of your circular of and I/we authorize you to place my/our name(s) on the Register of Members in respect of the said Shares.

(Signature of Acceptor).....

Address .....

Occupation.....

Date.....

Cheques should be made payable to Bearer and crossed "Not Negotiable, Bank Limited, Account ." If altered from "Order" to "Bearer" the alteration should be signed by the drawer.

An acknowledgment will be sent in due course by the Company.

Sometimes, in place of the Rights Form, a letter of allotment is sent, conditional on its acceptance and payment of first instalment, but this course is not recommended.

## CHAPTER XII

### RECONSTRUCTIONS

EXPOSITION of the various methods of raising capital would perhaps not be complete without some reference to reconstruction, by which is meant the liquidation of a company and the issue to the shareholders in part payment for the assets of partly-paid shares in a new company, the balance of the consideration being the discharge by the new company of the old company's liabilities and the costs of winding-up. This method of raising capital is not usually resorted to until all other means have failed. It falls into the category of issues to the shareholders of an existing company (in liquidation) and, being made to a restricted class, is not accompanied by a prospectus. Instead, a statement in lieu of prospectus is filed with the Registrar.

There is, of course, no obligation on the part of the shareholders to accept the partly-paid shares in the new company, but, if they do not do so, their interest in the assets ceases unless they effectively dissent from the reconstruction in accordance with the terms of Section 234, C.A., 1929, by serving on the liquidator a notice in writing expressing dissent and requiring him either to abstain from carrying the resolution into effect or to

purchase the dissenting member's interest at a price to be determined by agreement or by arbitration. This notice must be left at the registered office of the company within seven days after the passing of the resolution and can only be given if the member did not vote in favour of it.

For the purpose of an arbitration under the section, the provisions of the Companies Clauses Consolidation Act, 1845, or, in the case of a winding-up in Scotland, the Companies Clauses Consolidation (Scotland) Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with the C.A., 1929.

The old company is placed in liquidation and simultaneously, or at a later date, a resolution is passed authorizing the liquidator to register the new company and to enter into the reconstruction agreement with it and to carry that into effect.

When the new company has been formed and the reconstruction agreement executed by both parties, the offer of the partly-paid shares to the shareholders is made, shareholders who apply, in pursuance of their rights, becoming liable to pay up the liability on the new shares in accordance with the terms of the scheme.

It is, of course, desirable to have the scheme underwritten, so that the partly-paid shares are taken up by underwriters to the

extent that the shareholders do not apply for them, and it is desirable to ensure that the underwriters are on the Register as shareholders of the old company before the resolutions for liquidation and reconstruction are passed. The reason for this is that, under Section 55 of the Finance Act, 1927, relief in respect of capital duty on the nominal share capital of the new company and on the conveyance of property from the old to the new company is given provided the consideration for the acquisition (except such part thereof as consists in the transfer to or discharge by the transferee company of liabilities of the existing company) consists as to not less than 90 per cent thereof in the issue of shares in the transferee company to the existing company or to holders of shares in the existing company.

It is apparently not necessary that shares of the new company should be issued to shareholders of the old company *in the same proportions*, but if more than a few shares (e.g. signatories<sup>5</sup> shares) are issued to anyone who was not a shareholder in the old company, the benefit of this relief may be lost. Consequently, the holding of at least one share in the old company by anyone who may be called on to take up shares in the new company as an underwriter will facilitate the giving of the requisite certificate to the Revenue in order to secure this relief.

When the partly-paid shares of the new company are issued, it is preferable to get in for cancellation the share certificates of the old company, but this is not always easy.

To require the shareholders to return their certificates when making application for the shares of the new company might probably result in some loss of applications, through shareholders not having their certificates handy. It is usually desired to get as many shareholders as possible to take up the new partly-paid shares, and it is consequently the practice to refrain from taking any step that may hamper the subscription.

A better method is to ask the shareholders to return the old certificates for cancellation, when they exchange their fully-paid letters of allotment for the new share certificates.

The calling in and cancellation of the old share certificates will tend to prevent confusion in the future, if the new company is of the same, or similar, name, and will obviate a great deal of inquiry on behalf of deceased estates; but their surrender is not essential and there does not seem to be any practical means of insisting on it and, indeed, in the case of those shareholders who do not take up shares in the new company and who do not otherwise receive any return of capital, there appears to be no valid reason or excuse for asking for the share certificates to be returned.

The reconstruction agreement usually con-

tains a clause that, as regards the proportion of shares in the new company which members of the old company are entitled to claim, but do not within the specified period, the liquidator shall use his best endeavours to sell them for what they will fetch, the net proceeds of sale, after paying all expenses of and incidental to the sale, being distributed amongst the members failing to claim the shares in the new company. The distribution of these sums (if any) affords an opportunity for calling in the outstanding certificates in the hands of these shareholders.

## CHAPTER XIII

### ISSUE OF SHARE CERTIFICATES

SECTION 67 of the C.A., 1929, provides that " every company shall, within two months after the allotment of any of its shares, debentures or debenture stock, and within two months after the date on which a transfer of any such shares, debentures, or debenture stock, is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide."

It is, of course, usually inconvenient to have certificates ready for issue within two months of allotment, where any large number have to be prepared, and where a period is allowed within which the allotments may be renounced. Consequently, it is frequent for the conditions of issue to provide otherwise by inserting in the prospectus a note to the effect that certificates will be ready at a later date.

The form of the certificate is not laid down, and it may be in any appropriate form, such as the following—

## THE BLANK COMPANY, LIMITED.

Capital £  
 divided into shares of £ each.  
 This is to certify that \_\_\_\_\_ is the Registered  
 of \_\_\_\_\_ Proprietor of \_\_\_\_\_ fully-paid shares, numbered \_\_\_\_\_ to  
 inclusive in the above-named company, subject to the Articles  
 of Association and the Rules and Regulations of the said  
 Company.

Given under the Common Seal of the Company  
 this \_\_\_\_\_ day of \_\_\_\_\_ 193 .  
 in the presence of \_\_\_\_\_

*Note.* No transfer of any portion of the shares comprised  
 in this certificate will be registered without the production  
 and surrender of this certificate.

The certificates are usually numbered and  
 bound into books with a perforation, so that  
 they can be readily extracted, a counterfoil  
 being retained in the book. It is convenient  
 to have on the counterfoil a reference to the  
 allotment or transfer number.

Certificates will be given under the com-  
 pany's seal, in accordance with the regula-  
 tions laid down in the company's Articles of  
 Association as to the use of the seal.

It is not clear how the practice of sealing  
 certificates first arose, or why. In view of the  
 provisions of Section 29 of the C.A., 1929,  
 which makes it clear that it is not necessary  
 for a contract made under English law to be  
 under the company's seal unless it is "a con-  
 tract which if made between private persons  
 would be by law required to be in writing,  
 and . . . under seal," it might be thought  
 that it would be sufficient for certificates to be

signed by officers of the company, but Section 68 provides that "a certificate, under the common seal of the company, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares." Moreover, the Stock Exchange requirements, as set out in a previous chapter, require that certificates and debentures be under seal and autographically signed. Consequently, anomalous as it may seem, certificates issued by companies registered under the Companies Act should always be under seal, though it is not the practice of railway companies, formed under special Acts of Parliament, to seal their stock certificates.

Incidentally, it may be noted that the irritating practice of some company secretaries to require that applications by investment companies for new issues and registration applications by them for issues acquired by them on renunciation letters is quite unnecessary, having regard to the provisions of Section 29, noted in the previous paragraph. It is set out therein that "a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied." Also, "a contract which if made between private persons would by law be valid although made by

parole only, and not reduced into writing, may be made by parole on behalf of the company by any person acting under its authority, express or implied." The contract to take shares consists in the application (the offer) and the allotment (the acceptance) and there is no law requiring such a contract, if made between private persons, to be under seal (or even reduced into writing), so that an application on behalf of a company made by the secretary of that company (without the seal of the company) is just as binding as an application made in the same manner by a private person on his own behalf.

Certificates will, of course, be issued only against surrender of the fully-paid allotment letters, which should then be cancelled. If by the terms of issue, part of the amount due on the shares is deferred, to be called up later, certificates will be issued for partly-paid shares against the allotment letters, the payment of further calls on the shares being subsequently endorsed on the certificates against surrender of the receipted call letters.

## CHAPTER XIV

### CALLS

FREQUENTLY the terms of issue provide for the whole amount payable on shares and debentures being paid up by definite dates set out in the prospectus, but sometimes part of the unpaid amount is left to be called up by the directors as and when required.

Where this is the case, upon the directors deeming it desirable to make a call, it will be necessary to refer to the provisions of the Articles of Association and to proceed in accordance therewith. These may contain provisions that no call shall exceed, say, one-fourth of the nominal amount of a share or be made payable within two months after the last preceding call was payable and may also set out the length of notice to be given.

If the power to make calls is vested in the directors (this is usually the case), they will pass a resolution that a call of so much per share be made on the shareholders, "payable on the                      day of                      19                      at the Company's bankers."

The secretary will then prepare and send out the call letters, which may be worded as follows—

No.

THE BLANK COMPANY, LIMITED.  
(Address and Date)

(Shareholder's Name and Address)

Dear Sir (or Madam),

*Call of* \_\_\_\_\_ *per share.*

I am instructed to inform you that the Board of Directors have, by a resolution dated \_\_\_\_\_, made a call of \_\_\_\_\_ per share on the partly-paid shares of the company, payable on \_\_\_\_\_.

The number of partly-paid shares registered in your name is \_\_\_\_\_, and the amount of the call thereon, viz. £ \_\_\_\_\_ should be paid to the company's bankers, \_\_\_\_\_ Bank Limited, on or before the \_\_\_\_\_. This notice should accompany your remittance; the notice will then be receipted and returned to you, after which it should be forwarded to the company, together with the share certificate, in order that the certificate may be endorsed with a note of the payment of the call.

Failure to pay the call on the due date renders the shares and all previous payments liable to forfeiture. Interest at the rate of \_\_\_\_\_ per cent per annum may be charged on all overdue amounts.

Yours faithfully,

By Order of the Board,

Secretary.

Cheques should be made payable to Bearer and crossed "Not negotiable, a/c the Blank Company Limited." If altered from "Order" to "Bearer," the alteration should be signed by the drawer.

Received the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
for account of the Blank Company, Limited, the amount of the Call stated above.



Cashier.

.....perforation....."

No.

THE BLANK COMPANY, LIMITED.

Call of \_\_\_\_\_ per share due 19 \_\_\_\_\_

£ \_\_\_\_\_ Date of payment

The call is made when the resolution is passed and is owing from the date it is made, although payable subsequently. It is necessary that all formalities in connection with the making of the call should be strictly carried out—e.g. the resolution must be passed at a board meeting, properly convened, at which a quorum of directors is present, and must be in accordance with the powers given by the company's Articles of Association. Failure to pay attention to all such details may render the call invalid.

It is usually provided in Articles of Association for notices in the case of joint holders to be sent to the one named first on the Register, and, where this is the case, this procedure will be followed in sending out the call notices to joint holders. The liability is a joint one, unless the Articles of Association provide that it shall be a joint and several liability. Such a provision is commonly included.

## CHAPTER XV

### WRITING UP SHARE REGISTERS

WHEN the period, if any, allowed for renunciation has lapsed and the list of allotments is finally settled, the work of writing up the Share Register should be proceeded with as rapidly as possible. The allotment sheets will form a temporary register until the work of recording the list of members in a more convenient form is completed, but as a Register of Members it can only be regarded as provisional, as the names of those renouncing allotment will not be entered on the permanent register.

Section 95, C.A., 1929, provides that "Every company shall keep in one or more books a register of its members, and enter therein the following particulars—

"(a) The names and addresses, and the occupations, if any, of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

"(b) The date at which each person was entered in the register as a member;

" (c) The date at which any person ceased to be a member:

"Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Registrar of Companies, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this subsection."

Section 96 provides that "every company having more than fifty members shall, unless the Register of Members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company."

It is consequently convenient to keep the Register in loose-leaf form, so as to constitute in itself the index.

From time to time doubts are raised as to whether a Register in loose-leaf form complies with the requirement that it shall be kept "in one or more books." It is submitted that, in fact, it does, provided the sheets are properly fastened in a binder and there are safeguards for keeping the binder locked, the keys being held by responsible officials. Indeed, the words in Section 96 "unless the Register of Members is in such a form as to constitute in itself an index" would appear to suggest that the practice of keeping the Register in loose-leaf form,



the sheets being arranged in the form of an index, was recognized. The practice is so well established in the case of practically all companies (other than quite small companies) that it is difficult to imagine that it would now be seriously assailed.

The specimen on page 95 will be found to be a useful form.

A similar form of register will be necessary for debenture or debenture stock holders. In the case of registers for all forms of stock, the columns for distinctive numbers will not be required.

# CHAPTER XVI

## TRANSFERS OF SHARES

It is presumed that the reader will be acquainted with the common form of transfer in use for transferring shares or stock, which can be purchased at any law stationers, and the correct way in which this should be filled up and stamped by the Inland Revenue.

When transfers are presented to the company for registration and found to be in order and accompanied by the certificate for the shares or stock to be transferred, the certificate should be at once cancelled and endorsed with a note as to what has happened, in some such form as the following—

Date	Transfer No.	Name of Transferee	No. of Shares	Distinctive Numbers	New Cert. No.
------	--------------	--------------------	---------------	---------------------	---------------

A receipt should then be issued for the transfer from a counterfoil receipt book, for which purpose the following will be found to be a suitable ruling—

THE BLANK COMPANY, LIMITED.

No.

(Address)

.....193

### *Transfer Receipt*

Received of  
the undermentioned transfer deed(s) of shares in this Com-  
pany, fully paid, for registration, together with £ : :  
registration fees.

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Transfer No.	Transferor	Transferee	No. of Shares		Distinctive Numbers		Off Cert. No.
			Pref.	Ord.	From	To	

.....Secretary.

Subject to the transfers being passed by the Directors, the new certificates will be ready on.....

Transfer Hours: 11 till 3 (Saturdays excepted).

If there is a balance of shares not transferred from the surrendered share certificate, a balance ticket should be given from a counterfoil book, for which purpose the following ruling may be used—

THE BLANK COMPANY, LIMITED.

No. (Address)

.....193

*Balance Ticket*

This ticket represents \_\_\_\_\_ shares of each, \_\_\_\_\_ paid, in the name of \_\_\_\_\_ numbered \_\_\_\_\_ to \_\_\_\_\_ inclusive, being balance of shares on Certificate No. \_\_\_\_\_ left at the Company's office this day. A share certificate in exchange for this ticket will be ready on \_\_\_\_\_

.....Secretary.

Transfer Hours: 11 to 3 (Saturdays excepted).

A few companies are in the habit of exacting a charge of Is. for preparing a balance certificate, but as shareholders are entitled to a certificate without payment for shares acquired and as they are required to surrender it when they transfer any of the shares comprised in it, the writer submits that any charge cannot properly be sustained. It is, of course, different where a duplicate certificate is issued in exchange for one defaced or lost, where such charge as is authorized by the Articles of Association (usually Is.) may be made.

THE BLANK COMPANY, LIMITED.

(Address)

.....193 .

Dear Sir (or Madam),

The under-mentioned deed(s) of transfer, purporting to be signed by you, transferring shares in this company now standing in your name, has (have) been lodged for certification. In the event of no notification to the contrary being received by return of post, I shall assume the deed(s) to be in order, and it (they) will be dealt with by the Directors accordingly.

Yours faithfully,

.....Secretary.

Particulars of Deeds lodged.

No. of shares		In whose favour executed
Pref.	Ord.	

As some guard against forgery, it is customary (and desirable) to issue, as soon as a transfer is lodged for certification, a notice to the transferring shareholder as given on the previous page.

Transfers will be entered in a Register of Transfers with columns for—

Date.  
 No. of Transfer.  
 Folio in Register of Members.  
 Transferor's Name.  
 „ Address.  
 „ Occupation.  
 Transferee's Name.  
 „ Address.  
 „ Occupation.  
 Folio in Register of Members.  
 Number of shares (or amount of stock) transferred.  
 Distinctive Numbers of Shares.  
 Consideration per Share (or per cent of Stock).

The last column can be dispensed with, if desired, though it is often found convenient to have a ready record available of the prices at which shares or stock have changed hands.

From this register, when the transfers have been passed by the Board, they will be posted to the Register of Members.

## CHAPTER XVII

### CAPITAL ENTRIES IN BOOKS OF ACCOUNT

THE entries to be made in the books of account upon an issue of shares being made will be to credit the capital issued to Share Capital Account, debiting the amounts payable on Application and Allotment, on First Instalment, on Second Instalment Account, etc., to accounts under those names, which are closed from postings from the Cash Book.

The amounts received by the Bank on share and debenture accounts will be placed to special accounts by the Bank, the total of which will be transferred daily to the general account. As the details will be marked off, as paid, on the allotment sheets or application forms, there is no necessity to record the details in the books of account, but merely the daily totals transferred to the general account, which are then posted to the appropriate ledger accounts.

A list of overdue amounts can readily be prepared at any time, and steps should be taken to get them in without delay.

The following are specimen entries in the books of account of a company formed with a share capital of £300,000, divided into 100,000 Preference shares of £1 and 200,000 Ordinary shares of £1. The seven signatories

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to the Memorandum of Association each take one Ordinary share and there are offered for subscription 100,000 Preference shares at par, payable 2s. 6d. per share on application, 7s. 6d. per share on allotment and 10s. per share one month after allotment; also 100,000 Ordinary shares at 22s., payable 5s. per share on application, 7s. (including the premium of 2s.) per share on allotment and 10s. per share one month after allotment, the remaining 99,993 Ordinary shares being allotted to the Vendor as fully paid up in satisfaction of £99,993 of the purchase consideration. There are also offered for subscription £150,000 debenture stock at 95, payable 10 per cent on application, 25 per cent on allotment, 30 per cent one month after allotment and 30 per cent two months after allotment, which takes place on 1st January, the company having been registered the previous 23rd December.

		£	s.	d.	£	s.	d.
Dec. 23.	Share Application and Allotment	3	10	0			
	Final Instalment on Shares. Dr.	3	10	0			
	To Ordinary Share Capital .				7	0	0
	(seven signatories* shares)						
Jan. 1.	Share Application and Allotment. . . . . Dr.	£110,000					
	To Preference Share Capital .		60,000	0	0		
	Ordinary Share Capital .		50,000	0	0		
	Share Premium . . . . .		10,000	0	0		
	(amounts due upon allotments being made)						
	Debenture Stock Application and Allotment . . . . .	£52,500					
	Discount on Debenture Stock Dr.	£7,500					
	To Debenture Stock . . . . .		60,000	0	0		
	(amounts due and discount upon allotments made)						

## CAPITAL ENTRIES OF ACCOUNTS 103

		£	s.	d.
Feb.	1.	Final Instalment on Shares Dr. £100,000		
		To Preference Share Capital . . .	50,000	0 0
		Ordinary Share Capital . . .	50,000	0 0
		(final instalments due on shares)		
Feb.	1.	Debenture Stock First Instalment . . . Dr. £45,000		
		To Debenture Stock . . .	45,000	0 0
		(first instalment due on debenture stock)		
Mch.	1.	Debenture Stock Second Instalment. . . Dr. £45,000		
		To Debenture Stock . . .	45,000	0 0
		(second and final instalment due on debenture stock)		
		Vendor (Purchase A/c) . . . Dr. £99,993		
		To Ordinary Share Capital . . .	99,993	0 0

Dr.		SHARE APPLICATION AND ALLOTMENT		Cr.					
		£	s.	d.					
Dec. 23.	To Ordinary Share Capital.	3	10	0	Dec. 23.	By Cash . . .	3	10	0
Jan. 1.	„ Sundries . . .	110,000	0	0	Jan. 1.	„ „ . . .	37,500	0	0
							72,500	0	0

Dr.		FINAL INSTALMENT ON SHARES		Cr.					
		£	s.	d.					
Dec. 23.	To Ordinary Share Capital.	3	10	0	Dec. 23.	By Cash . . .	3	10	0
Feb. 1.	„ Sundries . . .	100,000	0	0	Feb. 1.	„ „ . . .	100,000	0	0

Dr.		DEBENTURE STOCK APPLICATION AND ALLOTMENT		Cr.						
Jan. 1.	To Debenture Stock . . .	£52,000				Dec. 31.	By Cash . . .	£15,000		
						Jan. 1.	„ „ . . .	37,000		

Dr.		DEBENTURE STOCK FIRST INSTALMENT		Cr.						
Feb. 1.	To Debenture Stock . . .	£45,000				Feb. 1.	By Cash . . .	£45,000		

Dr.		DEBENTURE STOCK SECOND INSTALMENT		Cr.						
Mch. 1.	To Debenture Stock . . .	£45,000				Mch. 1.	By Cash . . .	£45,000		

Dr.		ORDINARY SHARE CAPITAL		Cr.						
				Dec. 23.	By Sundries . . .	£7				
				Jan. 1.	„ Application and Allotment . . .	50,000				
				Feb. 1.	„ Final Instalment . . .	50,000				
					„ Vendor (Purchase A/c) . . .	99,993				
						<u>£200,000</u>				

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<i>Dr.</i>	PREFERENCE SHARE CAPITAL	<i>Cr.</i>									
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Jan. 1.</td> <td style="width: 60%;">By Application and Allotment</td> <td style="width: 30%; text-align: right;">£50,000</td> </tr> <tr> <td>Feb. 1.</td> <td>„ Final Instalment</td> <td style="text-align: right;">50,000</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right; border-top: 1px solid black;">£100,000</td> </tr> </table>	Jan. 1.	By Application and Allotment	£50,000	Feb. 1.	„ Final Instalment	50,000			£100,000	
Jan. 1.	By Application and Allotment	£50,000									
Feb. 1.	„ Final Instalment	50,000									
		£100,000									

<i>Dr.</i>	DEBENTURE STOCK	<i>Cr.</i>												
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Jan. 1.</td> <td style="width: 60%;">By Sundries</td> <td style="width: 30%; text-align: right;">£60,000</td> </tr> <tr> <td>Feb. 1.</td> <td>„ First Instalment</td> <td style="text-align: right;">45,000</td> </tr> <tr> <td></td> <td>„ Second Instalment</td> <td style="text-align: right;">45,000</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right; border-top: 1px solid black;">£150,000</td> </tr> </table>	Jan. 1.	By Sundries	£60,000	Feb. 1.	„ First Instalment	45,000		„ Second Instalment	45,000			£150,000	
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Feb. 1.	„ First Instalment	45,000												
	„ Second Instalment	45,000												
		£150,000												

<i>Dr.</i>	PREMIUM ON SHARES	<i>Cr.</i>			
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Jan. 1.</td> <td style="width: 60%;">By Application and Allotment</td> <td style="width: 30%; text-align: right;">£10,000</td> </tr> </table>	Jan. 1.	By Application and Allotment	£10,000	
Jan. 1.	By Application and Allotment	£10,000			

<i>Dr.</i>	DISCOUNT ON DEBENTURE STOCK	<i>Cr.</i>
Jan. 1.	To Debenture Stock	£7,500

<i>Dr.</i>	VENDOR (PURCHASE A/C)	<i>Cr.</i>
Mch. 1.	To Ordinary Share Capital	£09,993

<i>Dr.</i>	CASH	<i>Cr.</i>																																				
	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 60%;"></th> <th style="width: 30%; text-align: right;">£ s. d. £</th> </tr> </thead> <tbody> <tr> <td>Dec. 23.</td> <td>To Share Application and Allotment</td> <td style="text-align: right;">3 10 0</td> </tr> <tr> <td></td> <td>„ Final Instalment on Shares</td> <td style="text-align: right;">3 10 0</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right; border-top: 1px solid black;">7</td> </tr> <tr> <td>Dec. 31.</td> <td>„ Share Application and Allotment</td> <td style="text-align: right;">37,500</td> </tr> <tr> <td></td> <td>„ Debenture Stock Application and Allotment</td> <td style="text-align: right;">15,000</td> </tr> <tr> <td>Jan. 1.</td> <td>„ Share Application and Allotment</td> <td style="text-align: right;">72,500</td> </tr> <tr> <td></td> <td>„ Deb. Stock do. do.</td> <td style="text-align: right;">37,500</td> </tr> <tr> <td>Feb. 1.</td> <td>„ Final Instalment on Shares</td> <td style="text-align: right;">100,000</td> </tr> <tr> <td>Feb. 1.</td> <td>„ Deb. Stock, 1st Instalment</td> <td style="text-align: right;">45,000</td> </tr> <tr> <td>Mch. 1.</td> <td>„ Deb. Stock, 2nd Instalment</td> <td style="text-align: right;">45,000</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">£352,507</td> </tr> </tbody> </table>			£ s. d. £	Dec. 23.	To Share Application and Allotment	3 10 0		„ Final Instalment on Shares	3 10 0			7	Dec. 31.	„ Share Application and Allotment	37,500		„ Debenture Stock Application and Allotment	15,000	Jan. 1.	„ Share Application and Allotment	72,500		„ Deb. Stock do. do.	37,500	Feb. 1.	„ Final Instalment on Shares	100,000	Feb. 1.	„ Deb. Stock, 1st Instalment	45,000	Mch. 1.	„ Deb. Stock, 2nd Instalment	45,000			£352,507	
		£ s. d. £																																				
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Mch. 1.	„ Deb. Stock, 2nd Instalment	45,000																																				
		£352,507																																				

## CHAPTER XVIII

### ISSUE OF BONUS SHARES OUT OF RESERVE PROFITS

IT is frequently desired to capitalize profits (either capital profits or revenue profits) which have been set aside to reserve by extinguishing an unpaid liability on partly-paid shares or by issuing new fully-paid shares.

This course may be adopted, where it is authorized by the company's Articles of Association. If there is no provision in the Articles of Association, steps must first be taken to amend them by special resolution, and, where it is proposed to issue new shares, it must be seen that the new capital is available, failing which it will be necessary to increase the share capital, in accordance with the provisions contained in the articles for effecting an increase of capital.

The capitalization is then effected in accordance with the procedure set out in the articles. These usually provide that the company in general meeting may, upon the recommendation of the directors, pass a resolution to the effect that it is desirable to capitalize a sum of undivided profits for the time being not required for paying the fixed dividends on any preference shares (including

profits carried and standing to any reserve or reserves or other special account or shown on a revaluation of assets including goodwill) and accordingly that the directors be authorized and directed to appropriate and apply such sums of profits in paying up in full unissued shares of the company of a nominal amount equal thereto and allot and distribute such shares credited as fully paid up and by way of capitalization of profits to and amongst such of the shareholders as would be entitled thereto if the same had been distributed by way of dividend and in the same proportion.

The Articles also usually contain a clause giving full power to the directors to make such provisions by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares becoming distributable in fractions and also to make provision for enabling shareholders so desiring to renounce their allotments in favour of third parties.

In accordance with Section 42 of the Companies Act, 1929, a return of the allotments will have to be made to the Registrar and also a contract constituting the title of the allottee, since the shares will be allotted as paid up otherwise than in cash. The contract will be with a trustee on behalf of all the members.

The capitalization can take the form of a

different class of share or a distribution of debentures or debenture stock.

Where the capitalization is to extinguish an uncalled liability on partly-paid shares, the advantage to the shareholders can be readily understood, and there may be an advantage in distributing as a bonus a different class of share such as a preference share which the holder may have an opportunity of selling on the market for cash, retaining his share in the equity.

Where, however, the capitalization merely increases the number of shares of the same class held by the owners of the equity of the business, the advantage is less obvious, since it does not in any way alter the proportion owned by the shareholders in the equity. It may be urged that it has a beneficial effect on marketability by increasing the number of shares available for dealing (reducing the price correspondingly), but the same result may be achieved by sub-dividing the shares into a larger number of shares of a smaller denomination.

The reason frequently advanced for making a bonus distribution of fully-paid shares is in order to bring the issued share capital more into line with the real capital employed in the business, which may be an advantage if it is desired to combat a suggestion that the rate of profits earned on the issued capital is unduly high.

The advantages are psychological rather than logical, but probably none the less real, as such issues are undoubtedly viewed with favour by recipients and it is usually found that the market price of the shares is not reduced proportionately by the amount of the bonus issue, as theoretically it should be. The chief reason for this is probably a conviction on the part of the public that the directors would not have recommended the bonus distribution if they contemplated a proportionate reduction in the rate of future dividends.

Such a method of distributing profits is particularly welcome to sur-tax payers, who naturally prefer to receive profits as capital rather than as income.

Where there are preference shares in issue, a capitalization of revenue profits fortifies their position by increasing the amount of issued capital behind their security, and definitely placing it beyond the power of the company to distribute in cash the revenue profits previously placed to reserve.

# CHAPTER XIX

## FINES

THE Companies Act, 1929, is honeycombed with penalties for contravention of its requirements, and the following table should serve to show all those who are in any way concerned with the administration of joint stock companies the importance of familiarizing themselves with the requirements of the Act and of complying strictly with its provisions.

COMPANIES ACT, 1929  
FINES

Section	Offence	Amount not exceeding	By whom incurred
5, ss. 7.	Non-delivery to Registrar of office copy of order of Court confirming alteration of Memorandum, together with printed copy of Memorandum, as altered within fifteen days from date of order or extended period.	£10 per day.	Company.
7, 88. 3.	Non-delivery of notice of increase in number of members beyond registered number in a company not having a share capital within fifteen days.	£5 per day.	Company and every officer.
19, ss. 3.	Failure to change name within six weeks or such longer period as Board of <b>Trade allow</b> where it contains words "Chamber of Commerce" and requisite licence has been revoked.	£50 per day.	Company.
23	Failure to send a member, on request (subject to payment not exceeding 1s. and in case of Act of Parliament such sum not exceeding published price) copy of Memorandum and Articles also copy of any Act of <b>Parliament</b> which alters Memorandum.	£1 each offence.	<b>Company and every officer.</b>

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Section	Offence	Amount not exceeding	By whom incurred
24, ss. 2. 58, ss. 6.	Issues of copies of Memorandum not in accordance with alterations made therein.	£1 per copy.	Company and every officer.
27.	Non-delivery to Registrar for registration of a prospectus or a statement in lieu of prospectus in requisite form, within fourteen days of the alteration of the essential Articles of a Company constituting it a private company.	£50	Company and every officer.
34.	Non-delivery to Registrar of a copy of the prospectus for registration on or before date of its publication.	£5 per day after date of issue.	Company and every person who is knowingly a party to the issue.
35, ss. 3.	Failure to issue a prospectus, complying with the section, with every form of application for shares or debentures of a company, unless specifically excepted.	£500.	Any person responsible.
40.	Non-delivery to Registrar within at least three days before the first allotment of shares or debentures, of a statement in lieu of prospectus, signed by every person named therein as a director or proposed director, where a company does not issue a prospectus on or with reference to its formation.	£100.	Company and every director.
42.	Non-delivery to Registrar within one month of allotment or extended time of (a) return of allotments in respect of shares issued for cash, and (6), a contract in writing constituting the title of the allottee, in the case of shares allotted as fully or partly paid up for a consideration other than cash.	£50 per day.	Every director, manager, secretary, or other officer.
43.	Failure to deliver to Registrar a statement in the prescribed form disclosing the amount or rate per cent of commission, before the payment of such commission, provided such commission is not disclosed in a prospectus or statement in lieu of prospectus.	£25.	<b>Company and every officer.</b>

Section	Offence	Amount not exceeding	By whom incurred
44.	Failure to state in the Balance Sheet, the total amount of commission paid in respect of shares or debentures or discount allowed in respect of debentures until such amounts are written off.	£5 per day.	Company and every officer.
45.	Giving any financial assistance in connection with a purchase of the shares of the company in contravention of the section.	£100.	Company and every officer.
46, ss. 2.	Failure to include in the Balance Sheet a statement specifying what part of the issued capital consists of redeemable preference shares, and the date on or before which those shares are, or are to be liable, to be redeemed.	£100.	Company and every officer.
47, ss. 3.	Failure to include in every prospectus relating to the issue of shares and every Balance Sheet, particulars of discount allowed on shares issued, less any amounts written off.	£5 per day.	Company and every officer.
51.	Failure to give notice to Registrar specifying the shares consolidated, divided, converted, sub-divided, redeemed, or cancelled, or of any stock reconverted, within one month of such alterations.	£5 per day.	Company and every officer.
52.	Non-delivery to Registrar of notice of increase of share capital together with particulars and conditions of issue and a printed copy of the resolution authorizing the increase within fifteen days after the passing of such resolution.	£5 per day.	Company and every officer.
54, ss. (g)	Failure to show in the accounts of the company, the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.	£50.	Company and every officer.
60.	Wilful concealment of the name of any creditor entitled to object to a reduction of capital or misrepresenting the nature or amount of the debt or claim of any creditor or aiding or being privy to such concealment or misrepresentation.	(Misdemeanour)	Director, manager, secretary or other officer.

## 112 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
61,ss.5.	Failure to forward to the Registrar a copy of the order of the Court upon an application under this section for variation of shareholders' rights, within fifteen days after the making of the order by the Court.	£5 per day.	Company and every officer.
66.	Failure to forward to the transferee notice of refusal to register a transfer within two months after date of lodgment with the company.	£5 per day.	Company and every officer.
67.	Failure to complete and have ready for delivery certificates of shares, debentures and certificates of debenture-stock within two months after allotment or the date of lodgment of the transfer unless conditions of the issue of the shares, debentures, or debenture stock otherwise provide.	£5 per day.	Company and every officer.
73.	Failure to allow inspection of the Register of Debenture-holders to every registered holder of such debentures and to every holder of shares except on duly authorized occasions or refusal to forward a copy of the Register of Debenture-holders or the Trust Deed securing any issue of debentures at a charge of sixpence per 100 words, or in the case of a printed Trust Deed not more than one shilling to all authorized persons.	£5 and further a default fine of £2.	Company and every officer.
80.	Non-delivery to the Registrar within twenty-one days of the creation of the charge of particulars of every charge created by the company and of issues of debentures of a series requiring registration under Section 79, unless registration has been effected by some other interested person.	£50 per day.	Company and every officer or other person.

Section	Offence	Amount not exceeding	By whom incurred
81.	Non-delivery to the Registrar of the prescribed particulars of the charge together with a certified copy of the instrument by which it was created, within twenty-one days after the completion of the acquisition of property subject to a charge required to be registered under Section 79. (Where the property is situate and the charge was created outside Great Britain then within twenty-one days of receipt in the United Kingdom of a copy of the instrument.)	£50.	Company and every officer.
83, ss. 2.	Knowingly and wilfully authorizing or permitting the delivery of any debenture or certificate of debenture stock which has not a certificate of registration endorsed on it where such a certificate is required by this section.	£100.	Any person.
86.	Default in giving notice to the Registrar within seven days of the appointment of a receiver or manager of the property of a company and of default in giving Registrar notice of ceasing to act as receiver or manager under the powers of any instrument.	£5 per day.	Any person obtaining the appointment.
88.	Knowingly and wilfully authorizing or permitting the omission of any entry required to be made in the Register of Charges under this section.	£50.	Director, manager, or other officer.
89.	Refusal to allow inspection of copies of instruments creating mortgages and charges and company's Register of Charges by any creditor or member without fee or inspection of the Register of Charges by any other person on payment of a sum not exceeding one shilling.	£5 plus £2 per day.	Director, manager, or other officer.
92.	Failure to give Registrar notice of the situation of the registered office or of any change therein, within twenty-eight days after <b>the date</b> of incorporation of the company or of the change.	£5 per day default fine.	Company and every officer.

# 114 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
93, ss. 2.	Failure to paint or affix its name on the outside of every office or place in which its business is carried on in legible letters and in a conspicuous position.	£5.	Company and every officer.
	Failure to keep its name painted or affixed in the above manner.	£5 per day.	Company and every officer.
92, ss. 3.	Failure to have the name of the company engraved in legible characters on its seal or failure to mention its name in all notices, advertisements, bills of exchange, promissory notes, endorsements, cheques, orders for money or goods, bills of parcels, invoices, receipts, and letters of credits.	£50.	Company.
92, ss. 4.	Issuing or authorizing the issue of the aforementioned documents wherein its name is not mentioned in the required manner or using or authorizing the use of a seal of the company which is not engraved in the required manner.	£50 and personal liability to holder.	Director, Manager or officer or any person on the Company's behalf.
94.	Failure to deliver to the Registrar a statutory declaration by the secretary or one of the directors in the prescribed form that the conditions of this section have been complied with before the commencement of business or the exercise of borrowing powers by the company and in the case of a company with a share capital but not issuing a prospectus to the public, also a statement in lieu of a prospectus.	£50 per day.	Every person responsible.
95.	Failure to keep in one or more books a register of its members containing the particulars laid down under this section.	£5 per day.	Company and every officer.
96.	Failure to keep in a company having more than fifty members an index of the names of the members, unless the Register of Members is in such a form as to constitute itself an index and default in making within fourteen days after the date of an alteration in the Register the necessary alteration in the index.	£5 per day.	Company and every officer.

Section	Offence	Amount not exceeding	By whom incurred
98, ss. 3.	Failure to allow inspection of the Register of members except on duly authorized occasions to any member without charge or to any other person on the payment of a sum not exceeding one shilling or of failure to send within ten days after the request is received by the company a copy of the Register required by any person on payment of a sum not exceeding sixpence per 100 words.	£2 for each offence plus a default fine of £2.	Company and every officer.
103,ss.2.	Failure to give notice to the Registrar within fourteen days of the opening, change or discontinuance of any office at which any dominion registers are kept.	£5 per day.	Company and every officer.
104, ss. 3.	Failure to transmit to its registered office a copy of every entry in its dominion register as soon as may be after the entry is made and to keep at its registered office a duplicate of its dominion register.	£5 per day.	Company and every officer.
110,ss.4.	Failure to forward a copy of the annual return and summary containing the requisite particulars signed by a director, manager or secretary of the company forthwith to the Registrar after its completion within twenty-eight days of the first or only general meeting in the year.	£5 per day.	Company and every officer.
112.	Failure to hold a general meeting of a company once at least in every calendar year and not more than fifteen months after the holding of the last preceding general meeting.	£50.	Company and every director and manager.
113.	In the case of a company limited by shares or a company limited by guarantee and having a share capital, but not a private company, failure to hold a statutory meeting and to forward to every member a statutory report in the form laid down in the section within the requisite period.	£50.	Every director.
113,ss.5.	Failure of the directors to cause a copy of the statutory report duly certified to be delivered to the Registrar forthwith after it has been forwarded to the members.	£50.	Every director.

# 116 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
113,ss.6.	Failure of the directors to produce at the commencement of the statutory meeting and to lay open and accessible throughout the meeting a list containing particulars of the members and of their holdings.	£50.	Every director.
118,ss. 5.	Failure to forward to the Registrar a printed copy of every special or extraordinary resolution or any other resolution or agreement required by the section within fifteen days after the passing or making thereof.	£2.	Company and every officer.
118,ss.6.	Failure where Articles have been registered to embody or annex to every copy of the Articles issued subsequently to the passing of a resolution to which the section refers, a copy of any such resolution or agreement. Failure where no Articles have been registered, to forward to any member at his request for a sum not exceeding one shilling a printed copy of such resolution or agreement.	£1 per copy.	Company and every officer including liquidator.
121.	Refusal to allow inspection by a member of the General Meetings minute book during the proper periods, or failure to furnish within seven days of a request by a member, a copy of such minutes at a cost not exceeding sixpence per <b>100</b> words.	£2 plus default fine of £2.	Company and every officer.
122.	Failure to keep such proper books of account as are laid down in the section, at the registered office of the company or such other <b>place</b> as the directors <b>think fit</b> .	Imprisonment for a term not exceeding six months or £200.	<b>Directors.</b>



# 118 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
131.	Failure to publish a periodical statement in the form set out in the 7th Schedule to the Act in the case of banking, insurance, deposit, provident or benefit companies or societies or to put a copy of such statement in a conspicuous place and to furnish any member or creditor of the company with a copy for a sum not exceeding sixpence.	£5 per day.	Company and every director and manager.
133.	For a body corporate to act as auditor, unless acting under an appointment made prior to 3/8/1923.	£100.	Body corporate.
140.	Delivery to the Registrar by an applicant for registration of the Memorandum and Articles of a public company having a share capital a list of persons who have consented to be directors containing the name of any person who has not so consented.	£50.	Applicant.
141.	Acting as director without obtaining within two months of the date of appointment or such shorter period as may be fixed by the Articles the share qualification specified in the Articles.	£5 per day.	Persons acting as directors.
142.	For an undischarged bankrupt to act as director or take part in the management of a company without leave of the Court.	Im-prisonment and/or fine £500.	Undischarged bankrupt.
144.	Failure to keep a Register of Directors or Managers containing the requisite particulars or to send a copy thereof to the Registrar at the requisite time with any changes therein or failure to allow inspection of the Register by any member without charge and by any other person on the payment of a sum not exceeding one shilling.	£2 per day.	Company and every officer.

Section	Offence	Amount not exceeding	By whom incurred
145.	Failure to state on all trade catalogues, circulars, show cards, and business letters on or in which the company's name appears the requisite particulars as to directors, except where exemption is granted by the Board of Trade.	£5.	Every director and every officer of a corporation acting as a director.
146.	Failure to give notice in writing to a person proposed as director or manager that his liability will be unlimited where it is so provided by the memorandum.	£100.	Promoters, director, manager, secretary or proposer.
148.	Failure on demand by the members in the requisite manner to furnish all members with a statement of the directors' remuneration, certified by the auditors, within the requisite period and giving the necessary particulars.	£50.	Any director.
149.	Failure by a director to give the requisite notice of his interest in a contract or proposed contract.	£100.	Director.
150.	Failure to disclose to members and to obtain the approval of the company to any payments received by directors for loss of office or on retirement.	£25.	Director or any person properly required to do so.
153.	Failure to annex a copy of the order of the Court of a compromise or arrangements under this section to every copy of the Memorandum or instrument defining the constitution of the company subsequently issued.	£1 per copy.	Company and every officer.
154.	Default in delivering to the Registrar an office copy of the court order under the section within seven days of the making of such order.	£5 per day.	Company and every officer.
181.	Default in submitting to the official receiver a statement of the company's affairs in the requisite form and within the requisite period where a court has made a winding up order or appointed a provisional liquidator.	£10 a day.	Any responsible person without reasonable excuse.

# 120 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
217.	Acting as director or taking part in management in contravention of an order of the court based on the Official Receiver's further report in the winding up of a company by the court.	Im-prisonment and/or £500.	Any person.
221.	Failure by the liquidator to report the dissolution order to the registrar within fourteen days of the making of such order.	£5 per day.	Liquidator
226.	Failure to give notice by advertisement in the <i>Gazette</i> within seven days of the passing of a resolution for voluntary winding-up.	£5 per day.	Company, liquidator and every officer.
235.	Default in summoning a general meeting of the company at the end of each year from the date of commencement of the winding up and laying before such meeting an account of the Liquidator's acts, dealings and of the conduct of the winding up during the preceding year in a members' voluntary winding-up.	£10.	Liquidator.
236, ss. 3.	Failure to send to the Registrar within one week of the final meeting a copy of the account laid before such meeting, a return of the holding of the meeting and of its date.	£5 per day.	Liquidator.
236, ss. 5.	Failure to deliver to the Registrar an office copy of the court order for deferring the date of dissolution within seven days of the date of such order in a members' voluntary winding-up.	£5 per day.	Applicant for Court order.
238, ss. 2.	Failure to summon meetings of the creditors and the company in the requisite manner and to give the required notice thereof in a Creditors' Voluntary Winding-up.	£100.	Company and every officer in default.
ss. 3.	Failure to lay before the meeting of creditors a full statement of the company's affairs with a list of creditors and the estimated amounts of their claims and to appoint a director to preside at such meeting in a creditors' voluntary winding-up.	£100.	Directors.
ss. 4.	Default in presiding at the meeting of creditors.	£10.	The appointed director.

Section	Offence	Amount not exceeding	By whom incurred
244.	Default in summoning a general meeting of the company and a meeting of creditors at the requisite periods and of laying before the meetings an account of his acts, dealings and conduct in a creditors' voluntary winding-up.	£10.	Liquidator.
245, ss. 3.	Failure to send to the Registrar a copy of the account laid before the final meetings and a return of such meetings within one week thereafter.	£5 per day.	Liquidator.
ss. 5.	Failure to deliver to the Registrar an office copy of the court order deferring the date of the dissolution of the company within seven days of the date of the order.	£5 per day.	Applicant for Court Order.
250.	Failure to deliver to the Registrar notice of Liquidator's appointment <i>in</i> the prescribed form, within twenty-one days after such appointment.	£5 per day.	Liquidator.
271/277.	Certain offences antecedent to or in course of winding up committed by past or present officers of companies in liquidation.	Varying terms of imprisonment.	Liquidator.
278.	For a body corporate to act as liquidator, unless made prior to 3/8/1928.	£100.	Body corporate.
280.	Failure to ensure that every invoice, order form or business letter in which the name of the company appears contains a statement that the company is being wound up, where such is the case.	£20.	Company and every director, manager, secretary, other officer, liquidator, receiver, or manager.
283.	Failure to conform to the rules laid down in the section for the disposal of the books and papers of the company and liquidator or with any directions issued by the Board of Trade in connection therewith.	£100.	Any person.

## 122 ISSUE OF SHARES, DEBENTURES, BONDS

Section	Offence	Amount not exceeding	By whom incurred
284	Default in a winding-up in forwarding to the Registrar at the requisite intervals a statement in the prescribed form and containing the prescribed particulars or to allow a creditor or contributory to inspect such statement and to forward a copy thereof on demand at a prescribed fee.	£50 per day	Liquidator
294	Default in delivering to the Registrar within seven days of the date of the order, an office copy of a Court order declaring the dissolution of the company to be void.	£5 per day	Applicant for order.
306	For a body corporate to act as receiver unless under an appointment made prior to 3/8/1928.	£100	Body corporate.
398	Failure to arrange that every invoice, order for goods or business letter being a document on or in which the name of the company appears, includes a statement that a receiver or manager has been appointed where such is the case.	£20	Company and every director, manager, secretary, other officer, liquidator, and every receiver or manager.
310	Failure to deliver to the Registrar at the requisite intervals, an abstract of Receiver's receipts and payments.	£5 per day.	Every receiver or manager.
344/351	Failure to comply with the provisions of the sections relating to companies incorporated outside Great Britain which establish a place of business therein.	£50. Continuing offences £5 per day.	Company and every officer or agent.
354	Issuing, circulating, or distributing any prospectus or application for shares or debentures not in the requisite form.	£500.	Any person responsible.
356, ss. 5.	Failure to comply with the provisions of the section restricting the offering of shares to public for subscription or purchase.	<i>First Offence:</i> Imprisonment and/or £200. <i>Subsequent offences:</i> Imprisonment and/or £500.	Any person or every director and officer.

Section	Offence	Amount not exceeding	By whom incurred
362	Wilfully making a statement false in any material particular in any return, report, certificate, balance sheet, or other document referred to in the eleventh Schedule to the Act.	Im-prisonment and/or £100.	Any person responsible.
364	Using " Limited " or any contraction or imitation of the word as the last word <i>in</i> the name of a business, unless duly incorporated with limited liability.	£5 per day.	Any person or persons.



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