

COMPANIES (PROHIBITION OF BEARER SHARES) ACT 2011

Arrangement of Sections

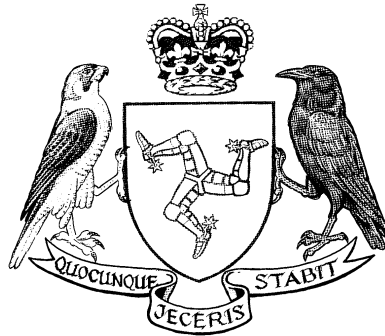
Section

1. Short title
2. Commencement
3. Conversion of bearer shares
4. Prohibition of bearer shares
5. Amendments and repeals

SCHEDULES: —

Schedule 1 — Amendments

Schedule 2 — Repeals



Isle of Man } Signed in Tynwald: 12th July 2011
tu Wit } Received Royal Assent: 12th October 2011
Announced to Tynwald: 18th October 2011

AN ACT

to require the conversion of bearer shares in companies into registered shares; to prohibit rights under bearer shares from being exercised without conversion; to prohibit new bearer shares being used in connection with companies; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1. The short title of this Act is the Companies (Prohibition of Bearer Shares) Act 2011. Short title

2. (1) Sections 1 to 3 come into operation on the date on which this Act is passed. Commencement

(2) Sections 4 and 5 come into operation 6 months after the date on which sections 1 to 3 come into operation.

3. After section 70 of the Companies Act 1931 (evidence of grant of probate) insert — Conversion of bearer shares

70A. (1) A company in respect of which a bearer share is in issue must ensure that the share is converted into a registered share. [XIII p.235]

“Conversion of bearer shares

(2) Subsection (1) has effect despite any contrary provision in the company's memorandum or articles.

(3) The company must notify the Department of Economic Development, in the form and manner required by that Department, within one month following the conversion of a bearer share into a registered share.

(4) No rights attached to a bearer share may be exercised unless the share is converted into a registered share.

(5) A company commits an offence if it fails to comply with subsection (1) within 6 months commencing on the date this section comes into operation.

(6) A company guilty of an offence under subsection (5) is liable —

- (a) on conviction on information, to a fine;
- (b) on summary conviction, to a fine not exceeding £5,000.

(7) Subsection (10) applies if an offence under subsection (5) is committed by a company and it is proved that a person specified in subsection (8) authorised, permitted, participated in, or failed to take all reasonable steps to prevent the commission of, the offence.

(8) The persons are —

- (a) an officer of the company;
- (b) a person carrying on the regulated activity of providing corporate services to the company (within the meaning of section 3 of the Financial Services Act 2008).

[c.8]

(9) In determining whether or not subsection (8)(b) applies to a person, no account is to be taken of —

- (a) an exclusion contained in an order made under section 3 of the Financial Services Act 2008 in respect of that regulated activity; or
- (b) an exemption contained in regulations made under section 44 of that Act in respect of that regulated activity.

(10) The person specified in subsection (8), as well as the company, commits the offence and is liable to the penalty provided for the offence.

(11) In this section —

“bearer share” means a share which is represented by a certificate, warrant or other document (in any form and by whatever name called) which states or otherwise indicates that the bearer of the certificate is the owner of the share (and includes a share warrant within the meaning of section 71);

“officer” includes —

- (a) a director, secretary or similar officer;
- (b) a person purporting to act as a director, secretary or similar officer;
- (c) if the affairs of the company are managed by its members, a member;

“register of members” means the register required to be kept under section 96;

“registered share” means a share in respect of which a person is entered in the register of members of the company as the holder of the share.”.

4. For section 71 of the Companies Act 1931 (prohibition of share warrants to bearer) substitute —

Prohibition
of bearer
shares

“Prohibition
of bearer
shares” **71.** (1) A company must not —

- (a) issue a bearer share;
- (b) convert a share into a bearer share; or
- (c) exchange a share for a bearer share.

(2) Accordingly, any such purported issue, conversion or exchange is void.

(3) A provision in a company’s memorandum or articles which purports to enable the company to do any of the matters mentioned in subsection (1) is also void.

(4) A company which contravenes subsection (1) commits an offence.

(5) A company guilty of an offence under subsection (4) is liable —

- (a) on conviction on information, to a fine;
- (b) on summary conviction, to a fine not exceeding £5,000.

(6) Subsection (9) applies if an offence under subsection (4) is committed by a company and it is proved that a person specified in subsection (7) authorised, permitted, participated in, or failed to take all reasonable steps to prevent the commission of, the offence.

(7) The persons are —

- (a) an officer of the company;
- (b) a person carrying on the regulated activity of providing corporate services to the company (within the meaning of section 3 of the Financial Services Act 2008).

[c.8]

(8) In determining whether or not subsection (7)(b) applies to a person, no account is to be taken of —

- (a) an exclusion contained in an order made under section 3 of the Financial Services Act 2008 in respect of that regulated activity; or
- (b) an exemption contained in regulations made under section 44 of that Act in respect of that regulated activity.

(9) The person specified in subsection (7), as well as the company, commits the offence and is liable to the penalty provided for the offence.

(10) In this section, “bearer share” and “officer” each have the same meaning as in section 70A.”.

Amendments
and repeals

- 5.** (1) The amendments specified in Schedule 1 have effect.
- (2) The repeals specified in Schedule 2 have effect.

Section 5(1)

SCHEDULE 1

AMENDMENTS

Company Officers (Disqualification) Act 2009 (c.4)

1. After paragraph 4(2)(c) of Part I of Schedule 1 (matters for determining unfitness of officers) insert —

“(ca) section 71 of the Companies Act 1931 (prohibition of bearer shares);”.

Section 5(2)

SCHEDULE 2

REPEALS

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal</i>
XIII p.235	Companies Act 1931	<p>In section 70A(11) (conversion of bearer shares), in the definition of “bearer share”, the words “(and includes a share warrant within the meaning of section 71)”.</p> <p>In section 72(1) (penalty for personation of shareholder), the following words —</p> <p>(a) “, or of any share warrant or coupon relating to it”; and</p> <p>(b) “or share warrant or coupon relating to it”.</p> <p>Section 73 (offences in connection with share warrants).</p> <p>In section 88(1) (company’s register of charges), the words “, except in the case of securities to bearer,”.</p> <p>Section 98 (entries in register in relation to share warrants).</p> <p>Section 140(2) (qualification of director or manager).</p>
1996 c.19	Limited Liability Companies Act 1996	In paragraph 9(1) of Schedule 3 (limited liability company’s register of charges), the words “, except in the case of securities to bearer,”.
2003 c.16	Companies, etc. (Amendment) Act 2003	Section 3 (substitution of new section for section 71).