



COMPANIES ACTS 1931 TO 2004 (TREASURY SHARE) REGULATIONS 2014

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*Companies Act 1992*

COMPANIES ACTS 1931 TO 2004 (TREASURY SHARE) REGULATIONS 2014

Approved by Tynwald: 17 June 2014
Coming into Operation: 1 July 2014

The Department of Economic Development makes the following Regulations under section 25A of the Companies Act 1992.

1 Title

These Regulations are the Companies Acts 1931 to 2004 (Treasury Share) Regulations 2014.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 July 2014.

3 Interpretation

In these Regulations —

“**the Act**” means the Companies Act 1992;

“**cash consideration**” means —

- (a) cash received by the company;
- (b) a cheque received by the company in good faith that the directors have no reason for suspecting will not be paid;
- (c) a release of a liability of the company for a liquidated sum;
- (d) an undertaking to pay cash to the company on or before a date not more than 90 days after the date on which the company agrees to sell the shares; or
- (e) payment by any other means giving rise to a present or future entitlement (of the company or a person acting on the company’s behalf) to a payment, or credit equivalent to payment, in cash.

For this purpose “cash” includes foreign currency;

“**Companies Registry**” means the Department of Economic Development;

“**distributable profits**” is to be construed in accordance with section 25 of the Act; and

“**treasury shares**” is to be construed in accordance with section 25A(2) of the Act.

4 Treasury shares

- (1) This regulation applies where —
 - (a) a company purchases its own shares in accordance with section 10 of the Act; and
 - (b) the purchase is made out of distributable profits.
- (2) Where this regulation applies the company may —
 - (a) hold the shares (or any of them); and
 - (b) deal with any of them, at any time, in accordance with regulations 7 and 9.
- (3) Where shares are held by the company, the company must be entered in its register of members as the member holding the shares.

5 Notice of purchase

- (1) Where shares are purchased (or treated as having been purchased) by a company as treasury shares, the company must deliver a return to the Companies Registry not later than one month after the shares are purchased.
- (2) The return must state with respect to shares of each class purchased —
 - (a) the particulars of the class of shares purchased;
 - (b) the number of shares purchased;
 - (c) the nominal value of each share purchased;
 - (d) the date on which they were purchased;
 - (e) the total number of shares held in treasury following the purchase; and
 - (f) the total number of shares in issue.
- (3) Particulars of shares purchased on different dates may be included in a single return.

6 Exercise of rights

- (1) A company must not exercise any right in respect of treasury shares, and any purported exercise of such a right is void.

This applies, in particular, to any right to attend or vote at meetings.

- (2) No dividend may be paid, and no other distribution (whether in cash or otherwise) of the company's assets (including any distribution of assets to members on a winding up) may be made to the company, in respect of the treasury shares.
- (3) Nothing in this section prevents —
 - (a) an allotment of shares as fully paid bonus shares in respect of the treasury shares; or
 - (b) the payment of any amount payable on the redemption of the treasury shares (if they are redeemable shares).
- (4) Shares allotted as fully paid bonus shares in respect of the treasury shares are treasury shares and are treated as if purchased by the company, at the time they were allotted.

7 Disposal

A company may at any time —

- (a) sell treasury shares (or any of them) for a cash consideration; or
- (b) transfer treasury shares (or any of them) for the purposes of or pursuant to an employees' share scheme.

8 Notice of disposal

- (1) Where treasury shares —
 - (a) are sold; or
 - (b) are transferred for the purposes of an employees' share scheme, the company must deliver a return to the Companies Registry not later than one month after the disposal of the shares.
- (2) The return must state with respect to shares of each class disposed of —
 - (a) the particulars of the class of shares disposed of;
 - (b) the number of shares disposed of;
 - (c) the nominal value of the shares disposed of;
 - (d) the total consideration for the shares including any loss on disposal or any amount in excess of the nominal value of the shares;
 - (e) the date of disposal of the shares;
 - (f) the total number of shares held in treasury following the disposal; and
 - (g) the total number of shares in issue following the disposal.
- (3) Particulars of shares disposed of on different days may be included in a single return.

9 Cancellation

- (1) A company may at any time cancel the shares (or any of them).
- (2) If the company cancels shares held as treasury shares, the amount of the company's share capital is reduced accordingly by the nominal amount of the shares cancelled.
- (3) The directors may take any steps required to enable the company to cancel its shares under this regulation without complying with the provisions of sections 56 to 61 of the Companies Act 1931 (reduction of share capital).

10 Notice of cancellation

- (1) Where treasury shares are cancelled, the company must deliver a return to the Companies Registry not later than one month after the shares are cancelled.

This does not apply to shares that are cancelled forthwith on their acquisition by the company.

- (2) The return must state with respect to shares of each class cancelled —
 - (a) the particulars of the class of shares cancelled;
 - (b) the number of shares cancelled;
 - (c) the nominal value of the shares cancelled;
 - (d) the date on which they were cancelled;
 - (e) the total number of shares held in treasury following the cancellation; and
 - (f) the total number of shares in issue following the cancellation.
- (3) Particulars of shares cancelled on different dates may be included in a single return.

11 Treatment of proceeds of sale

- (1) Where treasury shares are sold, the proceeds of the sale must be dealt with in accordance with this regulation.
- (2) If the proceeds of sale are equal to or less than the purchase price paid by the company for the shares, the proceeds are treated as a realised profit of the company.
- (3) If the proceeds of the sale exceed the purchase price paid by the company —
 - (a) an amount equal to the purchase price paid is treated as a realised profit of the company; and
 - (b) the excess must be transferred to the company's share premium account.

- (4) For the purposes of this regulation —
- (a) the purchase price paid by the company must be determined by the application of a weighted average price method; and
 - (b) if the shares were allotted to the company as fully paid bonus shares, the purchase price paid for them is treated as nil.

12 Maximum holdings

Any obligation to dispose of or cancel treasury shares held in excess of 10% of the issued shares of any class under the Companies Act 1931 to 2004 (Treasury Share) Regulations 2010 ceases to exist from 1 July 2014.

13 Modification of section 10 of the Act

- (1) For the purposes of these Regulations section 10 of the Act is modified as follows.
- (2) After subsection (1) insert —
- █(1A) Subject only to subsection (3), a company may purchase and hold its shares in treasury in accordance with regulations under section 25A (power to permit the holding of treasury shares). █
- (3) For subsection (3) substitute —
- █“(3) A company may not purchase any of its shares under this section if as a result of the purchase of the shares in question there would no longer be any member of the company holding shares other than —
 - a) redeemable shares; or
 - b) treasury shares. █.

14 Revocations

The Companies Act 1931 to 2004 (Treasury Share) Regulations 2010 are revoked.

MADE 21 MAY 2014

J P SHIMMIN
Minister for Economic Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to companies incorporated under the Companies Acts 1931 to 2004.

Companies that wish to repurchase issued shares must ordinarily do this under Part 1 of the Companies Act 1992. Any shares that are repurchased using this method must, on repurchase, be cancelled and the issued share capital of the company reduced accordingly.

Under these Regulations, a company may purchase its own shares out of distributable profits, and hold them in treasury, without cancelling them. The company must be entered on the register of members. While shares are held by the company as treasury shares, the normal rights that attach to shares, such as the right to vote and to receive a dividend, are suspended.

These Regulations replace the Companies Act 1931 to 2004 (Treasury Share) Regulations 2010.