

**CompaniesAct2014.com**  
**Summary Approval Procedure To Allow a Reduction in**  
**Company Capital**  
**SAP Step Plan**  
**Part 2**

**Step plan/action help sheet**

**Name of procedure:** Summary approval procedure to allow a reduction in company capital

**Sectional references:** Section 84 of CA 2014 (reduction in company capital); Section 202 of CA 2014 (Summary Approval Procedure) & Section 204 of CA 2014 (declaration required for reduction of company capital or variation of company capital on reorganisation); Section 92 (Notice to registrar of certain alterations of share capital), Section 181 (notice of general meetings), Section 193 (unanimous written resolution) & Section 194 (majority written resolution) of CA 2014

**Date:**

**Steps:**

Step	Commentary	Legislative Reference	Done
1	Assess whether the transaction comes within the remit for the reduction of the company's capital. If the answer to this question is yes, move to step 2.	S84 CA 2014	
1A	Assess whether there are tax implications as a result of the proposed reduction in the company's share capital. Section 117(9) CA 2014 makes it clear that the reduction should be treated as a realised profit. Regardless of this fact the reduction in capital would usually not result in any tax consequences for the company as the journals would just be a transfer between share capital and profit and loss reserves.	S117(9) CA 2014	
1B	Draft of a schedule of: <ul style="list-style-type: none"> <li>- the anticipated total amount of the company's assets and liabilities immediately after the restricted activity taking place.</li> <li>- the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration (management accounts or financial statements).</li> </ul>	S204 ca 2014	
2	Arrange to hold a board meeting no longer than 12 months from the carrying out of act of reducing the capital of the company. At this meeting:	S202(1) CA 2014	
2a	- approve the reduction of share capital and the summary approval procedure	S202(1) CA 2014	

2b	- the majority of directors or all of the directors agree to recommend to the members to allow the company to reduce the company capital and a special resolution be passed to permit this activity.	S201 & S202(1) CA 2014	
2c	<p>At this meeting or a meeting held not earlier than 30 days before the approval of the members by special resolution (where an initial meeting discussed in step 2 has been held after this 30 day period), the directors should make a declaration in writing declaring that having made full enquiry, the company will be able to pay its debts as they fall due for the 12 months period following the date the restricted activity was carried out (Section 201 &amp; 202 CA 2014). See step 4 for further items to be included in the directors' declaration.</p> <p>The special resolution can be in writing under Section 193 (unanimous resolution)/ Section 194 (majority resolution) or passed at an extraordinary general meeting.</p> <p>Where the resolution is passed in writing then the directors' declaration must be attached to the written resolution.</p>	S202(6) CA 2014	
3	Prepare a statement of assets and liabilities of the company up to a period not exceeding 3 months from the date of making the directors declaration.	S204(1)(d)	
3a	Prepare a statement of the expected assets and liabilities of the company after the proposed transaction has taken place	S204(1)€	
3b	Obtain a report prepared by a person who is qualified to be the independent auditor of the company stating in that experts opinion, the declaration (as detailed in step 4) made by the directors is not unreasonable	S208 CA 2014	
4	The minutes of the board meeting in step 2 should detail:	Section 201, 202 & 204 of CA 2014	
4a	the name of the company and the company number		
4b	the date, location and time of the meeting and the members present at the meeting		
4c	details of who was appointed chairman of the meeting		
4d	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014; Note that notwithstanding the disclosures, was pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest. It should also state whether a quorum was present.	S231, 228 & 229 of CA 2014	
4e	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director present holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S137 CA 2014	

4f	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a directors as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	Section 819, 839, 840 841, 842 and 828 of CA 2014.	
4g	Include a paragraph for 'Background' providing details of the proposed capital reduction to be entered into by the company giving details of the reasons why it is proposed.		
4h	<p>Include a paragraph for 'Purpose of meeting' providing exact details for the reason why the meeting was held e.g. to consider and if thought fit to approve the reduction of the Company's capital and provide a declaration of directors as required by Section 202 &amp; 204 of CA 2014 in order to allow the capital reduction to proceed and to recommend to the shareholders to pass a special resolution to effect the transaction.</p> <p>Detail the fact that such a transaction is not permitted under Section 84 unless Section 204 of CA 2014, SAP approval procedure is applied.</p>	S202 & 204 CA 2014	
4i	<p>Provide details of the requirements of the summary approval procedure (requirement for a special resolution) with reference to Section 84 and what is to be included in the directors declaration under Section 204 in the minutes (Note the directors declaration is filed with the CRO on the <a href="#">form SAP-204</a>). That being:</p> <p>1) The majority of directors must make a declaration stating:</p> <ul style="list-style-type: none"> <li>- the circumstances in which the transaction or arrangement is to be entered into;</li> <li>- the nature of the transaction or arrangement;</li> <li>- the person or persons to or for whom the transaction or arrangement is to be made;</li> <li>- that the declarants have made full inquiry into the affairs of the Company and that, having done so, they have formed the opinion that the Company, after having carried out the transaction to reduce the capital of the company, will be able to pay its debts in full as they become due during the period of 12 months after the date of the relevant act;</li> <li>- that the declarants do not have actual or constructive notice that the company will incur any material, extraordinary, future liability within the period of 12 months after the date of making of the declaration.</li> </ul>	S204(1) & 208 CA 2014	

	<ul style="list-style-type: none"> <li>- the anticipated total amount of the company's assets and liabilities immediately after the restricted activity having taken place.</li> <li>- the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration</li> </ul> <p>2) that a special resolution is required to be passed by the shareholders approving the reduction in capital.</p> <p>3) that the declaration of the directors is accompanied by a report prepared by a person who is qualified to be the independent auditor of the company stating in that experts opinion, the declaration made by the directors is not unreasonable</p>		
4j	Detail the fact that the directors were advised of the serious nature of the Section 84 declaration and the penalties that the directors were liable for if the directors make the declaration without unreasonable grounds for doing so (i.e. they may be liable for all liabilities that arise within the 12 month period).	S210 CA 2014	
4k	Detail the fact that the directors took account of the financial position and liabilities of the company (including prospective and contingent) and have assessed the financial position of the company before the transaction takes place and the expected financial position after the transaction takes place. Include the fact that the directors were presented with the balance sheet (as prepared in step 3) above before and the expected balance sheet after during the meeting as part of this process.	S204(1) CA 2014	
4l	Draft up the directors declaration to be signed by all or a majority of directors which addresses (note the directors declaration is included in the Form SAP-204 which must be signed by all directors making the declaration):	S204(1) CA 2014	
	<ul style="list-style-type: none"> <li>- the circumstances in which the transaction or arrangement is to be entered into;</li> </ul>	S204(1)(a) CA 2014	
	<ul style="list-style-type: none"> <li>- the nature of the transaction or arrangement;</li> </ul>	S204(1)(b) CA 2014	
	<ul style="list-style-type: none"> <li>- the person or persons to or for whom the transaction or arrangement is to be made;</li> </ul>	S204(1)(c) CA 2014	
	<ul style="list-style-type: none"> <li>- that the declarants have made full inquiry into the affairs of the Company and that, having done so, they have formed the opinion that the Company, after having carried out the transaction to reduce the capital of the company, will be able to pay its debts in full as they become due during the period of 12 months after the date of the relevant act;</li> </ul>	S204(1)(f) CA 2014	
	<ul style="list-style-type: none"> <li>- that the declarants do not have actual or constructive notice that the company will incur any material, extraordinary, future liability within the period of 12 months after the date of making of the declaration.</li> </ul>	S204(1)(g) CA 2014	

	- the anticipated total amount of the company's assets and liabilities immediately after the restricted activity having taken place.	S204(1)(e) CA 2014	
	- the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration	S204(1)(d) CA 2014	
4m	Detail the acknowledgement of the directors of the obligations imposed under Section 204 and they acknowledge that the draft declaration was true and correct.	S204 CA 2014	
4n	Detail the fact that the directors' declaration was produced to the directors for their review and after consideration it was signed by all or a majority of directors on the basis that all the conditions required by Section 204 as detailed above had been met, they were happy to proceed to deem the Section 204 Declaration executed. Get all directors who have made the declaration to also sign the <a href="#">form SAP-204</a> which is what should be filed with the CRO.	S204(1) CA 2014	
4o	Detail the wording of the special resolution to allow the reduction of the company's capital which will be provided to the shareholders for approval. This should include details of number, class and nominal value per share, the total amount by which the capital is reduced and the owners of those shares and the fact that the liability on the shares is reduced as a result and refer to the directors' declaration.	S202 CA 2014	
4p	Recommend that the directors' declaration and the special resolution when passed be filed by using a form SAP-204 with the CRO within 21 days of reducing the share capital.	S204(4) CA 2014	
4q	Detail the fact that it was resolved that an extraordinary general meeting be held to allow the shareholders to vote on the special resolution and that the required notice be given to all members together with a copy of the signed directors' declaration which includes the independent persons report.  THIS STEP IS ONLY PERFORMED WHERE A WRITTEN RESOLUTION IS NOT BEING PASSED I.E. WHERE A MEETING IS HELD.	S181 CA 2014	
4r	Unanimously agree that the directors be given authority to signed the loan agreement on the company's behalf		
4s	Declare the meeting closed		
4t	Request the secretary or director to obtain the independent persons report to confirm the declaration which was just passed was 'not considered unreasonable' in order to satisfy the requirements of Section 208	S208 CA 2014	
4u	Have the chairperson sign and date the board minute and insert it into the minute book of the company.		
5	Draft the written special resolution based on the resolutions detailed in the board meeting above and reference the fact that the directors resolution is attached to the written resolution itself (which includes the independent persons report) and have this resolution signed by all members entitled to vote where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the	S193 CA 2014 S194 CA 2014	

	<p>top specifically states that they are special resolutions and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. Where a written majority resolution has been passed ensure this resolution is signed by the required majority of members and it refers to S194 with wording similar to the aforementioned. Ensure where a majority written resolution is to be passed that the required notice mentioned in step 5a below is dealt with.</p>		
5a	<p>Where a written resolution is not utilised there is no need for the resolution to be signed. In addition it should not refer to Section 193/194 in any way and the wording in relation to it being valid and effective as if a general meeting had been convened because effectively an extraordinary meeting has to be convened for a resolution that is not written.</p> <p>Ensure all members entitled to attend and vote at the meeting/on the written resolution have been informed of the meeting within the required notice period (this is also applicable for a majority written resolution). The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.</p> <p>This notice should include: the date, time, location of the meeting, give details of the special resolutions to be considered for approval, the fact that a proxy can be utilised which does not have to be a member and the date by which the member must notify the company of a proxy being used. A consent to short notice should be signed by all members including the auditor (if applicable) where less than the statutory notice is provided which is a signed confirmation from all parties that they consent to the short notice. A copy of the directors' declaration should be attached to the notice of the meeting.</p>	<p>S181 CA 2014</p> <p>S181(5) 183 CA 2014</p>	
6	<p>Where an extraordinary meeting is held (as opposed to a written resolution), draft the minutes of the extraordinary general meeting with the usual requirements (as per step 4(a) to 4(c)) and detail the approval of the special resolution to approve the reduction of the company's capital and the fact the all members consented to the short notice for the meeting where this is the case.</p> <p>Ensure the minutes are signed by the chairperson.</p>	<p>S202 CA 2014</p>	
7	<p>Hold a board meeting to advise that the shareholders had passed the resolutions at the extraordinary general meeting held earlier in the day and to instruct the secretary to file the <a href="#">Form G1</a> together with the directors' declaration within 21 days to the CRO in addition to filing the <a href="#">form B7</a>.</p>	<p>Section 201(3) &amp; 204(2) of CA 2014</p>	

	Document in the board minutes the aforementioned facts in addition to the standard confirmations detailed in step 4(a) to 4(f) above.		
8	Ensure a copy of the declaration/Form SAP-204 is delivered to the CRO not later than 21 days after the date on which the restricted activity commenced. If it is not submitted within this period it will invalidate the summary approval process	Section 201(3) of CA 2014	
9	File the Form G1 with the CRO ensuring that the directors declaration is attached to the G1 (ideally within 15 days of passing the special resolution).	S191 CA 2014	
9a	in the effective date on the G1, date this the date the special resolution was dated. Include the company number and Company name on page one of Form G1		
9b	In the resolution details section of the Form G1, type the resolutions passed into the resolution text area on the form G1 which is an exact replicate of the resolution prepared at step 6 or 7 above or alternatively attach a copy of the resolution prepared and state 'see resolution attached'. Also attach the directors declaration (which includes the independent persons report)		
9c	In the resolution passed section of the Form G1, insert 'In writing' if done by a written resolution as opposed to by a formal meeting. If by meeting select the extraordinary general meeting option.		
9d	In the writing type section of the Form G1, insert 'Pursuant to section 193(1) (unanimous written resolution) if it is done by written resolution under S193 CA 2014. If it is passed by meeting then no further options are required.		
9e	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No' where it is being filed on core		
9f	Complete the information of the person/director that will sign the signature page at 'particulars of persons verifying the contents of the form' of the Form G1 on CORE or if done hard copy in the certification section of the form		
9g	Include details of the agent presenting/filing the Form G1 in the detail of presenter section of the Form G1		
9k	File the Form G1 on CORE or send to the CRO together with the directors' declaration where a hard copy is filed out		
9l	Arrange for a director to sign the electronic G1 signature page once filed on core (where core is used) and send this to the CRO with the directors' declaration.		
10a	File form B7 – variation of company capital, informing the CRO of the redemption and cancellation of the redeemable shares. In the form B7:	S92 CA 2014	
10b	Include the company number on the top right of the form in the space provided		
10c	Include the company name in the space provided		
10d	In the 'description of change' include a narrative within the space provided or include an attachment and instead include the wording 'See attached'. The wording should detail the number of shares, nominal value per share, the class of shares, the holder of the shares and the date they were cancelled.		

10e	Include the effective date in the space provided, which should be the date the shares were redeemed		
10f	In the certification section, tick the secretary or director as appropriate		
10g	In the 'Presenter details' section include the agent that filed the return.		
<p>In my professional opinion in my capacity as the professional advisor, the summary approval procedure and related company secretarial documentation comply with the Company Law requirements.</p> <p><b>Signed:</b> _____ <b>Date:</b> _____</p>			

**Forms**

Form G1

Form B7

Form SAP-204