

BUSINESS LAW 2

WORKSHOP 2 Student Guide

Equity Finance Allotment, Issue and Transfer of Shares

Context

All businesses need financing in some shape or form. There are two basic ways in which a company raises capital: by issuing shares and by borrowing. Usually a company is financed by a combination of the two.

As you have seen, finance raised by issuing shares is often referred to as equity finance, reflecting the underlying fact that shareholders are the owners of the company. Finance raised by lenders is generally called "debt finance". In legal terms, there is a clear division between the two, but in commercial terms, you will see that they fall on a continuous spectrum of risk and reward. Both shareholders and lenders can be seen as investors in the company, who want to a return on their capital which is invested in the company. If the company is profitable, shareholders, as 'owners' of the company receive a return on their investment by sharing in surplus profits by way of dividends and from any capital appreciation in the value of their shares, but they run the risk that if the company fails, they may lose their entire investment. Lenders, receive a return by way of interest paid on the loans but, again, unless they have adequately protected their investment, stand to lose out if the company becomes insolvent.

In this Workshop, you will concentrate on equity finance, considering the statutory rules which govern the issue of new shares and which are designed to ensure fairness between shareholders and to prevent the directors abusing their power to allot shares.

Outcomes

By the end of this Workshop you should be able to:

1. Identify the different classes of shares and the rights that commonly attach to them.
2. Identify when statutory pre-emption rights apply to the allotment of shares and explain the procedure for disapplication of these rights.

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Daniel V. Davidson



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