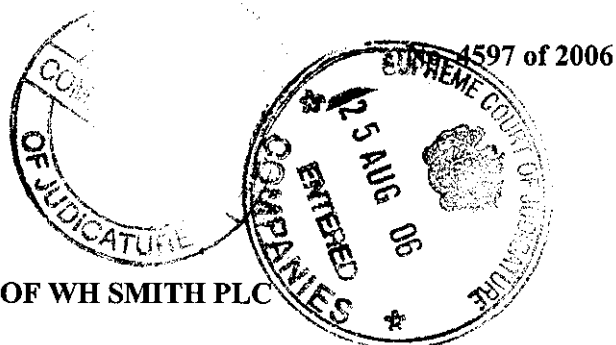


**IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
COMPANIES COURT**

MR. JUSTICE PUMFREY  
Friday the 25th day of August 2006



**IN THE MATTER OF WH SMITH PLC**

**and**

**IN THE MATTER OF THE COMPANIES ACT 1985**

UPON THE PETITION of the above-named WH Smith PLC (hereinafter called the **Company**) whose registered office is situate at Greenbridge Road, Swindon, Wiltshire SN3 3DX preferred until this Court on 15th August 2006

AND UPON HEARING Counsel for the Company and for Smiths News PLC (respectively referred to in the Scheme of Arrangement hereinafter sanctioned)

AND UPON READING the documents recorded on the Court File as having been read

AND Smiths News PLC by Counsel for the Company being its Counsel for the purpose of submitting and undertaking to be bound by the Scheme of Arrangement hereinafter sanctioned and undertaking to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it for the purpose of giving effect thereto

THE COURT HEREBY SANCTIONS the Scheme of Arrangement set forth in the Schedule hereto

AND IT IS ORDERED that an office copy of this Order be delivered to the Registrar of Companies

AND IT IS ORDERED that the further hearing of this Petition be adjourned to Tuesday 29 August 2006.

*RA*



## **Part IX**

### **SCHEME OF ARRANGEMENT**

**IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
COMPANIES COURT**

**No. 4597 of 2006**

**IN THE MATTER OF WH SMITH PLC**

**and**

**IN THE MATTER OF THE COMPANIES ACT 1985**

**SCHEME OF ARRANGEMENT  
(under section 425 of the Companies Act 1985)**

**between**

**WH SMITH PLC**

**and**

**THE HOLDERS OF THE SCHEME SHARES  
(as hereinafter defined)**

#### **PRELIMINARY**

- (A) In this Scheme of Arrangement, unless the context otherwise requires, the following expressions shall bear the following meanings:

**Act** means the Companies Act 1985, as amended;

**business day** means a day (excluding a Saturday or Sunday) on which banks generally are open for business in the City of London for the transaction of normal banking business;

**Clause** means a clause of this Scheme;

**Company** or **WH Smith** means WH Smith PLC, a public limited company incorporated in England and Wales with registered number 471941;

**Court** means the High Court of Justice of England and Wales;

**Court Meeting** means the meeting of the holders of WH Smith Ordinary Shares convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve this Scheme, and any adjournment thereof;

**CREST** means the system for the paperless settlement of trades in listed securities and the holding of uncertificated securities operated by CRESTCo;

**CRESTCo** means CRESTCo Limited;

**CREST Regulations** means the Uncertificated Securities Regulations 2001, as amended;

**Deferred Share** means the deferred share of 2<sup>13</sup>/<sub>16</sub> pence in the capital of the Company described in Preliminary (B) below;

**Demerger** means the proposed demerger of WH Smith from Smiths News, details of which are set out in the Explanatory Statement;

**Demerger Effective Time** means the time at which the Demerger becomes effective, expected to be following close of business (London Time) on 31 August 2006;

**Explanatory Statement** means the explanatory statement sent to shareholders of the Company with this Scheme pursuant to section 426 of the Act;

**New Shares** means ordinary shares of 2½ pence each in the capital of WH Smith created following the cancellation of the Scheme Shares and to be issued credited as fully paid to Smiths News pursuant to the Scheme and/or its nominee or nominees;

**New WH Smith** means New WH Smith PLC, a public limited company incorporated in England and Wales with registered number 5202036;

**New WH Smith Shares** means ordinary shares of 195 pence each in the capital of New WH Smith; pence or £ means the lawful currency of the United Kingdom;

**Scheme Effective Date** means the date on which this Scheme becomes effective in accordance with Clause 7;

**Scheme Effective Time** means the time at which this Scheme becomes effective in accordance with Clause 7;

**Scheme or Scheme of Arrangement** means this scheme of arrangement proposed to be made under section 425 of the Act with or subject to any modification, addition or condition approved or imposed by the Court;

**Scheme Record Time** means 6.00 p.m. (London time) on the business day immediately preceding the Scheme Effective Date;

**Scheme Shareholder** means a holder of Scheme Shares as appearing in the register of members of WH Smith at the Scheme Record Time;

**Scheme Shares** means

- (a) all the WH Smith Ordinary Shares in issue at the date of this Scheme;
- (b) all (if any) additional WH Smith Ordinary Shares in issue at the Scheme Voting Record Time; and
- (c) all (if any) further WH Smith Ordinary Shares which may be in issue immediately before the confirmation by the Court of the reduction of capital provided for by Clause 1 of this Scheme in respect of which the original or any subsequent holders shall be bound by the Scheme or in respect of which the original or any subsequent holders shall have agreed in writing to be so bound;

**Scheme Voting Record Time** means 6.00 p.m. (London time) on 31 July 2006 or, if the Court Meeting is adjourned, 6.00 p.m. on the day which is two days before the day of any adjourned Court Meeting;

**Smiths News** means Smiths News PLC, a public limited company incorporated in England and Wales with registered number 5195191;

**Smiths News Shares** means ordinary shares of 365 pence each (or such lower nominal value as the directors of Smiths News shall decide before the date on which the Court is asked to sanction the Scheme) in the capital of Smiths News to be issued credited as fully paid pursuant to the Scheme;

**Special Resolution** means the first resolution set out in the notice convening the Extraordinary General Meeting of the Company set out in Part XII of the document sent to WH Smith Shareholders on or around 7 July 2006;

**uncertificated or in uncertificated form** means in relation to a share or other security, a share or other security title to which is recorded on the relevant register of the share or security concerned as being held in uncertificated form in CREST and title to which, by virtue of the CREST Regulations, may be transferred by means of CREST;

**United Kingdom or UK** means the United Kingdom of Great Britain and Northern Ireland;

**WH Smith Ordinary Shares** means ordinary shares of 2<sup>13</sup>/<sub>16</sub> pence each in the capital of WH Smith;

**WH Smith B Shares** means non-cumulative redeemable B preference shares of 53.75 pence each in the capital of WH Smith;

**WH Smith C Shares** means non-cumulative C preference shares of 85 pence each in the capital of WH Smith; and

**WH Smith Shareholders** means the holders of WH Smith Ordinary Shares.

- (B) The authorised share capital of the Company at the date of this Scheme is £416,508,927.28 divided into 2,304,667,740 WH Smith Ordinary Shares, 285,540,480 WH Smith B Shares and 82,875,506 WH Smith C Shares, 260,620 3<sup>3</sup>/<sub>4</sub> per cent. cumulative preference shares of £1 each and 167,686,994 deferred shares of 85 pence each, of which 181,088,761 WH Smith Ordinary Shares, 4,422,298 WH Smith B Shares and 9,693,148 WH Smith C Shares have been issued and are credited as fully paid and the remainder are unissued. Prior to the Scheme Effective Time, it is proposed that one of the WH Smith Ordinary Shares be reclassified as a Deferred Share and allotted and issued to Smiths News and credited as fully paid.
- (C) Smiths News was incorporated in England and Wales as a private limited company on 2 August 2004, with registered number 5195191, and re-registered as a public limited company on 23 June 2006.
- (D) The authorised share capital of Smiths News at the date of this Scheme is £1,095,050,040 divided into 300,000,000 ordinary shares of 365 pence each, one redeemable preference share of £50,000 and 40 deferred shares of £1 each. 40 ordinary shares, the redeemable preference share and all of the deferred shares have been issued and are paid up in full. All other shares are unissued.
- (E) The purpose of this Scheme is to provide for the repayment and cancellation of the WH Smith B Shares and the WH Smith C Shares and the cancellation of the Scheme Shares and the issue to Smiths News of New Shares in consideration of such cancellation of Scheme Shares and the allotment by Smiths News of Smiths News Shares to the holders of the Scheme Shares.
- (F) The Directors of WH Smith and Smiths News envisage that, subject to the passing of the Special Resolution prior to the sanctioning of this Scheme by the Court, WH Smith will issue to Smiths News one Deferred Share.
- (G) Subject to certain conditions being fulfilled, including this Scheme becoming effective (with or without any modification, alteration or condition which the Court may approve or impose) it is proposed that the Demerger be implemented by transferring WH Smith to New WH Smith pursuant to a dividend *in specie* of WH Smith paid by Smiths News under which Smiths News will transfer WH Smith to New WH Smith in exchange for the issue of shares by New WH Smith to Smiths News's shareholders.
- (H) Smiths News has agreed to appear by Counsel at the Court hearing to consent to the Scheme and to undertake to be bound thereby and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it for the purpose of giving effect to this Scheme.
- (I) After the Scheme has become effective and before the Demerger becomes effective, New WH Smith will change its name to WH Smith PLC and WH Smith will change its name to Greenbridge Retail Limited. The Court will be asked, pursuant to section 139 of the Act, to authorise WH Smith to be re-registered as a private company.

## THE SCHEME

### 1. Cancellation of Scheme Shares, WH Smith B Shares and WH Smith C Shares

- (a) The issued share capital of WH Smith shall be reduced by cancelling and extinguishing the Scheme Shares.
- (b) Subject to and forthwith upon the reduction of capital referred to in Clause 1(a) taking effect:
  - (i) the authorised share capital of WH Smith shall be increased to its former amount by the creation of such number of New Shares as shall be equal to the aggregate number of Scheme Shares cancelled pursuant to Clause 1(a); and
  - (ii) WH Smith shall apply the credit arising in its books of account as a result of such reduction of capital in paying up, in full at par, the New Shares created pursuant to Clause 1(b)(i) and shall allot and issue the same, credited as fully paid up, to Smiths News and/or its nominee or nominees.
- (c) The issued share capital of WH Smith shall be further reduced by cancelling and extinguishing the WH Smith B Shares and the WH Smith C Shares.

### 2. Consideration for the cancellation of the Scheme Shares, WH Smith B Shares and the WH Smith C Shares

- (a) In consideration of the cancellation of the Scheme Shares and the issue of the New Shares to Smiths News and/or its nominee or nominees pursuant to Clause 1, Smiths News shall (subject to the remaining provisions of this Clause and to the provisions of Clauses 3, 4 and 5), allot and issue (credited as fully paid) Smiths News Shares to the Scheme Shareholders on the basis of one Smiths News Share for each Scheme Share held at the Scheme Record Time.
- (b) In consideration of the cancellation of the WH Smith B Shares and the WH Smith C Shares, WH Smith shall pay to the holders of the WH Smith B Shares and the WH Smith C Shares at the Scheme Record Time, the amounts to which they are entitled under the articles of association of WH Smith, being the nominal value of the relevant shares together with any accrued dividend.

### 3. Allotment and issue of Smiths News Shares

- (a) The Smiths News Shares to be issued pursuant to Clause 2 shall rank *pari passu* in all respects with the other Smiths News Shares in issue at the Scheme Effective Time including for all dividends or distributions made, paid or declared after the Scheme Effective Time on the ordinary share capital of Smiths News.
- (b) The provisions of Clause 2 shall be subject to any prohibition or condition imposed by law. Without prejudice to the generality of the foregoing, if, in respect of any Scheme Shareholder who the Company reasonably believes is a citizen, resident or national of any jurisdiction outside the United Kingdom, Smiths News is advised that the allotment and issue of Smiths News Shares pursuant to Clause 2 would or might infringe the laws of any jurisdiction outside the United Kingdom or would or might require Smiths News to observe any governmental or other consent or effect any registration, filing or other formality with which, in the opinion of Smiths News, it would be unable to comply or which it regards as unduly onerous, then Smiths News may in its sole discretion either:
  - (i) determine that no such Smiths News Shares shall be allotted and issued to such shareholder under Clause 2 but instead such shares shall be allotted and issued to a nominee appointed by Smiths News as trustee for such shareholder, on terms that they shall, as soon as practicable following the Scheme Effective Time, be sold on behalf of such shareholder at the best price which can reasonably be obtained and the net proceeds of such sale shall (after the deduction of all expenses and commissions, including any amount in respect of value added tax payable thereon) be paid to such shareholder by sending a cheque or warrant to such shareholder in accordance with the provisions of Clause 4. In the absence of bad faith or wilful default, none

of WH Smith, Smiths News or any broker or agent of either of them shall have any liability for any loss arising as a result of the timing or terms of any such sale; or

- (ii) determine that such Smiths News Shares shall be sold, in which event the Smiths News Shares shall be issued to such shareholder and Smiths News shall appoint a person to act pursuant to this Clause 3(b)(ii) and such person shall be authorised on behalf of such shareholder to procure that any shares in respect of which Smiths News has made such a determination shall, as soon as practicable following the Scheme Effective Time, be sold at the best price which can reasonably be obtained at the time of sale and the net proceeds of such sale (after the deduction of all expenses and commissions, including any amount in respect of value added tax payable thereon) shall be paid to such shareholder by sending a cheque or warrant to such shareholder in accordance with the provisions of Clause 4. To give effect to any such sale, the person so appointed shall be authorised on behalf of such shareholder to execute and deliver a form of transfer and to give such instructions and do all such things which he may consider necessary or expedient in connection with such sale. In the absence of bad faith or wilful default, none of WH Smith, Smiths News or the person so appointed shall have any liability for any loss or damage arising as a result of the timing or terms of such sale.

#### **4. Certificates and payments**

- (a) Not later than five business days after the Scheme Effective Date, Smiths News shall allot and issue all Smiths News Shares which it is required to allot and issue to give effect to this Scheme.
- (b) As soon as reasonably practicable after the Scheme Effective Date, and not later than 15 days after the Scheme Effective Date, Smiths News shall send by post to the allottees of the Smiths News Shares certificates in respect of such shares, pursuant to Clause 2, save that where Scheme Shares are held in uncertificated form, Smiths News will procure that CRESTCo is instructed to cancel the entitlement to Scheme Shares of each of the Scheme Shareholders concerned and to credit to the appropriate stock account in CREST of each such Scheme Shareholder the due entitlement to Smiths News Shares.
- (c) Not later than 15 days following the sale of any relevant Smiths News Shares pursuant to Clause 3(b), Smiths News shall procure that the nominee referred to in Clause 3(b)(i) or such person appointed to act under Clause 3(b)(ii) shall account for the cash payable by despatching to the persons entitled thereto cheques and/or warrants by post.
- (d) Not later than 15 days following the Scheme Effective Date, WH Smith shall account for the cash payable to the holders of the WH Smith B Shares and WH Smith C Shares by despatching to the persons entitled thereto cheques and/or warrants by post.
- (e) All certificates required to be sent by Smiths News pursuant to Clause 4(b) and all cheques or warrants required to be sent pursuant to Clauses 4(c) and 4(d) shall be sent through the post in pre-paid envelopes addressed to the persons respectively entitled thereto at their respective addresses appearing in the register of members of WH Smith at the Scheme Record Time (or, in the case of joint holders, to the address of that one of the joint holders whose name stands first in the register in respect of the joint holding) or in accordance with any special instructions regarding communications received at the registered office of WH Smith before the Scheme Record Time.
- (f) None of WH Smith, Smiths News, any nominee referred to in Clause 3(b)(i), such person appointed to act under Clause 3(b)(ii) or any agent of any of them shall be responsible for any loss or delay in transmission of certificates, cheques or warrants sent in accordance with this Clause 4.
- (g) All cheques and warrants shall be made payable to the shareholder or, in the case of joint holders, to the first-named shareholder in respect of the Scheme Shares (or, as the case may be, the WH Smith B Shares or the WH Smith C Shares) concerned in sterling drawn down on a UK clearing bank and the encashment of any such cheque shall be a complete discharge to the Company and Smiths News for the monies represented thereby.
- (h) This Clause 4 shall be subject to any prohibition or condition imposed by law.

## **5. Certificates representing Scheme Shares, WH Smith B Shares and WH Smith C Shares**

With effect from and including the Scheme Effective Time:

- (a) All certificates representing holdings of Scheme Shares, WH Smith B Shares and WH Smith C Shares shall cease to be valid in respect of such holdings. The shareholder in respect of such shares shall be bound at the request of WH Smith to deliver such certificates for cancellation to WH Smith or to any person appointed by WH Smith to receive the same, unless such certificates have already been destroyed; and
- (b) CRESTCo shall be instructed to cancel the entitlements to Scheme Shares of holders of Scheme Shares, WH Smith B Shares and WH Smith C Shares respectively in uncertificated form.

## **6. Mandated payments and other instructions**

- (a) All mandates in force at the Scheme Record Time relating to the payment of dividends on Scheme Shares and all instructions given relating to notices and other communications from WH Smith will, unless and until varied or revoked, be treated, from the Scheme Effective Time as being valid and effective mandates or instructions to Smiths News in relation to the corresponding Smiths News Shares to be allotted and issued pursuant to this Scheme.
- (b) All mandates in force at the Scheme Record Time relating to the payment of dividends on Scheme Shares and all instructions given relating to notices and other communications from WH Smith will, when and until varied or revoked, be treated, as from the Demerger Effective Time as being valid and effective mandates or instructions to New WH Smith in relation to the corresponding New WH Smith Shares to be allotted and issued pursuant to the Demerger.

## **7. Effective Date**

- (a) This Scheme shall become effective as soon as an office copy of the Order of the Court sanctioning this Scheme under section 425 of the Act shall have been duly delivered to the Registrar of Companies for registration and the Minute confirming under section 137 of the Act the reduction of capital provided for by this Scheme shall have been registered by the Registrar of Companies.
- (b) Unless this Scheme shall have become effective on or before 30 September 2006 or such later date, if any, as WH Smith and Smiths News may agree and the Court may allow, it shall lapse.

## **8. Costs**

The Company shall be authorised and permitted following this Scheme becoming effective to pay any and all of the costs and expenses relating to the Scheme and the Demerger.

## **9. Modification**

WH Smith and Smiths News may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or to any condition which the Court may think fit to approve or impose.

## **10. Demerger**

The resolution of the Company and/or Smiths News to approve the dividend *in specie* required to implement the Demerger (the **Resolution**) may provide that if, in respect of any former holder of Scheme Shares who has become a holder of Smiths News Shares pursuant to this Scheme and who has a registered address in a jurisdiction outside the United Kingdom, or who is a citizen, resident or national of a jurisdiction outside the United Kingdom, New WH Smith is advised that the allotment and issue of New WH Smith Shares pursuant to the Demerger would or might infringe the laws of any jurisdiction outside the United Kingdom or would or might require New WH Smith to observe any governmental or other consent or any registration, filing or other formality with which New WH Smith cannot comply or compliance with which New WH Smith considers unduly onerous, New WH Smith may determine that such New WH Smith Shares shall be sold, in which event the New WH Smith Shares shall be issued to such shareholder and New WH Smith shall appoint

a person to act pursuant to the Resolution and such person shall be authorised on behalf of such shareholder to procure that any shares in respect of which New WH Smith has made such a determination shall, as soon as practicable following the Demerger Effective Time, be sold at the best price which can reasonably be obtained at the time of sale and the net proceeds of such sale (after the deduction of all expenses and commissions, including any amount in respect of value added tax payable thereon) shall be paid to such shareholder by sending a cheque or warrant to such shareholder in accordance with the Resolution. The Resolution may provide that to give effect to any such sale, the person so appointed shall be authorised on behalf of such shareholder to execute and deliver a form of transfer and to give such instructions and do all such things which he may consider necessary or expedient in connection with such sale and that in the absence of bad faith or wilful default, none of Smiths News, New WH Smith or the person so appointed shall have any liability for any loss or damage arising as a result of the timing or terms of such sale.

Date: 7 July 2006



**IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
COMPANIES COURT**

Mr. Justice Pumfrey  
25th August, 2006

**IN THE MATTER OF WH SMITH PLC**

**and**

**IN THE MATTER OF THE COMPANIES ACT  
1985**

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**ORDER**  
sanctioning Scheme of Arrangement

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