

## Meaning of “distribution”, “capitalisation”, etc., and supplemental provisions

123. (1) In this Part “distribution” means every description of distribution of a company's assets to members of the company, whether in cash or otherwise, except distributions made by way of—

(a) an issue of shares as fully or partly paid bonus shares;

(b) the redemption of preference shares pursuant to section 108 out of the proceeds of a fresh issue of shares made for the purposes of redemption;

(c) the redemption or purchase of shares pursuant to section 105 and the other relevant provisions of this Part out of the proceeds of a fresh issue of shares made for the purposes of the redemption or purchase;

(d) the payment pursuant to section 106 (5) of any premium out of the company's undenominated capital on a redemption referred to in that provision; and

(e) a distribution of assets to members of the company on its winding up.

(2) In this Part “capitalisation”, in relation to any profits of a company, means any of the following operations, that is to say, applying the profits in wholly or partly paying up unissued shares in the company to be allotted to members of the company as fully or partly paid bonus shares or transferring the profits to undenominated capital.

(3) In this Part references to profits and losses of any description are references respectively to profits and losses of that description made at any time and, except where the context otherwise requires, are references respectively to revenue and capital profits and revenue and capital losses.

(4) The provisions of this Part are without prejudice to any enactment or rule of law or any provision of a company's constitution restricting the sums out of which, or the cases in which, a distribution may be made.

(5) Where a company makes a distribution of or including a non-cash asset and any part of the amount at which that asset is stated in the financial statements relevant for the purposes of the distribution in accordance with this Chapter represents an unrealised profit, that profit is to be treated as a realised profit—

(a) for the purpose of determining the lawfulness of the distribution in accordance with this Chapter (whether before or after the distribution takes place); and

(b) for the purpose of the application of paragraphs 14(a) and 37(3) of Schedule 3 (only realised profits to be included in or transferred to the profit and loss account) in relation to anything done with a view to or in connection with the making of that distribution.