

## Variation of company capital on reorganisation

91. (1) Subject to subsection (3), a company (the “relevant company”) may for any purpose (with the result that its company capital is thereby re-organised) transfer or dispose of—

- (a) one or more assets;
- (b) an undertaking or part of an undertaking; or
- (c) a combination of assets and liabilities,

to a body corporate, on the terms that the consideration (or part of the consideration) therefor is as follows.

(2) That consideration (or part of consideration) is one comprising shares or other securities of that body corporate paid (by the allotment of them) to the members of the relevant company or of its holding company rather than to the relevant company.

(3) Subsection (2) applies whether or not the terms of the transfer or disposal referred to in subsection (1) also involve the payment of cash to the members of the relevant company or of its holding company or the relevant company.

(4) A transaction to which subsection (1) applies shall not be undertaken unless it is—

- (a) approved by the relevant company by employing the Summary Approval Procedure; or
- (b) approved by special resolution passed by the relevant company that is confirmed by the court under section 85 as if that resolution were providing for a reduction of the company's company capital to 87 shall apply accordingly with the necessary modifications).

(5) Where such a transaction is so approved or confirmed by order of the court under section 85, there shall be deducted from such of the relevant company's reserves and company capital as the relevant company shall, by ordinary resolution, resolve an amount equivalent to the value (as stated in, or ascertainable from, the accounting records of the company immediately before the transfer or disposal) of the transferred or disposed asset or assets, undertaking or part of an undertaking mentioned in subsection (1).

(6) Any transaction in contravention of this section shall be voidable at the instance of the relevant company against any person (whether a party to the transaction or not) who had notice of the facts which constitute such contravention.