

Relevant financial statements in the case of distribution by PLC

1083. (1) In addition to its application for the purpose of determining whether a distribution may be made by a PLC without contravening section 117, and the amount of any distribution which may be so made, section 121 shall apply for the purpose of determining whether a distribution may be made by a PLC without contravening section 1082, and the amount of any distribution which may be so made.

(2) Accordingly section 1082 shall be treated as contravened in the case of a distribution unless the requirements of section 121 in relation to the financial statements mentioned therein are complied with in the case of that distribution.

(3) For the purposes of the application of section 121, by virtue of subsection (1), to a distribution (and without prejudice to that section's application otherwise to a distribution by a PLC)—

(a) there shall, in section 121 (2)(b), be substituted “if that distribution would be found to contravene section 1082” for “if that distribution would be found to contravene section 117”; and

(b) there shall, in section 121 (3)(a) and (c), be substituted “whether that distribution would be in contravention of section 1082” for “whether that distribution would be in contravention of section 117”.

(4) In addition to the foregoing provisions as regards section 121's application, subsections (5) to (8) contain provisions supplementing section 121's application in the case of a distribution by a PLC and that section shall have effect accordingly.

(5) The following requirements apply to interim financial statements, as referred to in section 121, that are prepared for a proposed distribution by a PLC, that is to say:

(a) the financial statements shall have been properly prepared or have been so prepared subject only to matters which are not material for the purpose of determining, by reference to the relevant items as stated in those statements, whether that distribution would be in contravention of section 117 or 1082, as the case may be;

(b) a copy of those financial statements shall have been delivered to the Registrar;

(c) if the financial statements are in a language other than the English or Irish language, a translation into English or Irish of the statements which has been certified in the prescribed manner to be a correct translation, shall also have been delivered to the Registrar.

(6) The following requirements apply to initial financial statements, as referred to in section 121, that are prepared for a proposed distribution by a PLC, that is to say:

(a) the financial statements shall have been properly prepared or have been so prepared subject only to matters which are not material for the purpose of determining, by reference to the relevant items as stated

in those statements, whether that distribution would be in contravention of section 117 or 1082, as the case may be;

(b) the statutory auditors of the PLC shall have made a report stating whether, in their opinion, the financial statements have been properly prepared;

(c) if, by virtue of anything referred to in that report, the report is not an unqualified report, the statutory auditors shall also have stated in writing whether, in their opinion, that thing is material for the purpose of determining, by reference to the relevant items as stated in those financial statements, whether that distribution would be in contravention of section 117 or 1082, as the case may be;

(d) a copy of those financial statements, of the report made under paragraph (b) and of any such statement shall have been delivered to the Registrar; and

(e) if the financial statements are, or that report or statement is, in a language other than the English or Irish language, a translation into English or Irish of the financial statements, the report or statement, as the case may be, which has been certified in the prescribed manner to be a correct translation, shall also have been delivered to the Registrar.

(7) For the purposes of this section, section 121 (6) shall apply as if “Where subsection (3)(a) or section 1083 (5)(a) or 1083 (6)(a) applies to the relevant financial statements” were substituted for “Where subsection (3)(a) applies to the relevant entity financial statements”.

(8) The reference in the definition of “properly prepared” in section 121 (7) to financial statements includes a reference to interim or initial financial statements referred to in subsection (5) or (6) and, for the purpose of that definition as it relates to either such type of statement, section 290 and section 291 or 292 as appropriate, and, where applicable, Schedule 3 shall be deemed to have effect in relation to interim and initial financial statements with such modifications as are necessary by reason of the fact that the financial statements are prepared otherwise than in respect of a financial year.