
Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, Cross Heading: Distributable reserves of companies. (See end of Document for details)

SCHEDULES

SCHEDULE 3

FINANCIAL STRUCTURE OF SUCCESSOR COMPANIES

Distributable reserves of companies

- 6 (1) Where statutory accounts of a relevant successor company prepared as at any time would show the company as having net assets in excess of the aggregate of—
- (a) its called-up share capital, and
 - (b) the amount, apart from any property, rights and liabilities to which the company has become entitled or subject in accordance with any restructuring scheme, of its undistributable reserves,
- then, for the purposes of [F¹section 830 of the Companies Act 2006] (profits available for distribution) and of the preparation as at that time of any statutory accounts of the company, that excess shall be treated, except so far as the Secretary of State may otherwise direct, as representing an excess of the company's accumulated realised profits over its accumulated realised losses.
- (2) For the purposes of [F²section 831 of the Companies Act 2006] (restriction on distribution of assets) so much of any excess of a company's net assets as falls, in accordance with a direction under sub-paragraph (1) above, to be treated otherwise than as representing an excess of the company's accumulated realised profits over its accumulated realised losses shall be treated (subject to any modification of that direction by a subsequent direction under this paragraph) as comprised in the company's undistributable reserves.
- (3) A direction under this paragraph may provide, in relation to any amount to which it applies, that, on the realisation (whether before or after the company in question ceases to be wholly owned by the Crown) of such profits and losses as may be specified or described in the direction, so much of that amount as may be determined in accordance with the direction is to cease to be treated as mentioned in sub-paragraph (2) above and is to fall to be treated as comprised in the company's accumulated realised profits.
- (4) The Secretary of State shall not give a direction under this paragraph in relation to a relevant successor company at any time after the company has ceased to be wholly owned by the Crown.
- (5) In exercising his power to give a direction under this paragraph, the Secretary of State shall have regard, in particular, to the provisions of Schedule 4 to this Act and to any provision contained in any restructuring scheme by virtue of any provision of that Schedule.
- (6) The consent of the Treasury shall be required for the giving of a direction under this paragraph.
- (7) In this paragraph—

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“called-up share capital” has the same meaning as in the [^{F3}Companies Act 2006];

“net assets” has the meaning given by subsection (2) of [^{F4}section 831] of that Act; and

“undistributable reserves” has the meaning given by [^{F5}subsection (4)] of that section;

and references in this paragraph, in relation to a company, to statutory accounts are references to accounts of that company prepared in respect of any period in accordance with the requirements of that Act, or with those requirements applied with such modifications as are necessary where that period is not an accounting reference period.

Textual Amendments

- F1** Words in Sch. 3 para. 6(1) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 196(2)** (with arts. 6, 11, 12)
- F2** Words in Sch. 3 para. 6(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 196(3)** (with arts. 6, 11, 12)
- F3** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 196(4)(a)** (with arts. 6, 11, 12)
- F4** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 196(4)(b)** (with arts. 6, 11, 12)
- F5** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 196(4)(c)** (with arts. 6, 11, 12)

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