



# Finance Act 1993

## 1993 CHAPTER 34

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### EXCHANGE GAINS AND LOSSES

##### Modifications etc. (not altering text)

- C1** Pt. II Chapter II (ss. 125-170) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 19(2)** (as inserted (1.5.1995) by 1995 c. 4, s. 133, **Sch. 25 paras. 1, 6(5)**)  
Pt. II Chapter II (ss. 125-170) restricted (31.7.1998) by 1988 c. 1, **Sch. 28AA para. 8** (as inserted (31.7.1998) by 1998 c. 36, s. 108, **Sch. 16 para. 8(1)(a)**)  
Pt. II Chapter II (ss. 125-170): power to amend conferred (3.5.1994) by 1994 c. 9, s. **177(6)(b)**  
Pt. II Chapter II (ss. 125-170) excluded (3.5.1994) by 1994 c. 9, **ss. 226(2), 230**  
Pt. II Chapter II (ss. 125-170) modified (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(2)** (with s. 40(7)); S.I. 1994/2189, art. 2, **Sch.**  
Pt. II Chapter II (ss. 125-170) modified (23.3.1995) by S.I. 1994/3226, **reg. 3(2)**  
Pt. II Chapter II (ss. 125-170) applied (23.3.1995) by S.I. 1994/3231, **reg. 2(1)**  
Pt. II Chapter II (ss. 125-170) modified (29.4.1996) by 1996 c. 8, s. 105, **Sch. 15 Pt. I para. 22(1)** (with ss. 80-105)
- C2** Pt. II Chapter II to be construed with 1994 c. 31, **Sch. 4 Pt. I para. 23** (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(5)**; S.I. 1994/2189, art. 2, **Sch.**

*Accrual of gains and losses*

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F1** S. 125 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F2** **126** .....

**Textual Amendments**

**F2** S. 126 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F3** **127** .....

**Textual Amendments**

**F3** S. 127 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Trading gains and losses*

**F4** **128** .....

**Textual Amendments**

**F4** S. 128 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Non-trading gains and losses*

**F5** **129** .....

**Textual Amendments**

**F5** S. 129 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F6** **130** .....

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F6** S. 130 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Alternative calculation*

**F10** 134 .....

**Textual Amendments**

**F10** S. 134 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b)(3), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Main benefit test*

**F11** 135 .....

**Textual Amendments**

**F11** S. 135 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F12** 135A.....

**Textual Amendments**

**F12** S. 135A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Arm's length test*

**F13** 136 .....

**Textual Amendments**

**F13** S. 136 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(1)** Note 2 (with Sch. 23 paras. 25, 26)

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**F14** 136A.....

**Textual Amendments**

**F14** S. 136A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F15** 137 .....

**Textual Amendments**

**F15** S. 137 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F16** 138 .....

**Textual Amendments**

**F16** S. 138 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Deferral of unrealised gains*

**F17** 139 .....

**Textual Amendments**

**F17** S. 139 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F18** 140 .....

**Textual Amendments**

**F18** S. 140 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**F19** 141 .....

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F19** S. 141 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F20</sup> **142** .....

**Textual Amendments**

**F20** S. 142 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F21</sup> **143** .....

**Textual Amendments**

**F21** S. 143 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Irrecoverable debts*

<sup>F22</sup> **144** .....

**Textual Amendments**

**F22** S. 144 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F23</sup> **145** .....

**Textual Amendments**

**F23** S. 145 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Currency contracts: special cases*

<sup>F24</sup> **146** .....

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F24** S. 146 repealed (27.4.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F25</sup> **147** .....

**Textual Amendments**

**F25** S. 147 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Excess gains or losses*

<sup>F26</sup> **148** .....

**Textual Amendments**

**F26** S. 148 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Local currency to be used*

<sup>F27</sup> **149** .....

**Textual Amendments**

**F27** S. 149 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Exchange rate to be used*

**150 Exchange rate at translation times.**

- (1) This section has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent at a translation time of—
  - (a) the basic valuation of an asset or liability,
  - (b) the nominal amount of a debt outstanding, or
  - (c) an amount of currency.
- (2) References in this section to the two currencies are to—
  - (a) the local currency and the nominal currency of the asset or liability concerned (where this section applies by virtue of subsection (1)(a) or (1)(b) above), or

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- (b) the local currency and the currency mentioned in subsection (1)(c) above (where this section applies by virtue of subsection (1)(c) above).
- (3) References in this section to an arm's length rate are to such exchange rate for the two currencies as might reasonably be expected to be agreed between persons dealing at arm's length.
- (4) Subsections (5) to (7) below apply where the translation time is a translation time solely by virtue of an accounting period of the company coming to an end.
- (5) In a case where—
- (a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company for the last day of the accounting period, and
  - (b) the rate is an arm's length rate,
- that is the exchange rate to be used as regards the asset, liability or contract.
- (6) In a case where—
- (a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,
  - (b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company for the last day of the accounting period,
  - (c) the fact that such an exchange rate is not so used conforms with [<sup>F28</sup>generally accepted accounting practice], and
  - (d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,
- the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.
- (7) In a case where neither subsection (5) nor subsection (6) above applies, the London closing exchange rate for the two currencies for the last day of the accounting period is the exchange rate to be used.
- (8) Subsections (9) to (14) below apply where the translation time is a translation time otherwise than solely by virtue of an accounting period of the company coming to an end.
- (9) In a case where—
- (a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time,
  - (b) the rate represents the average of arm's length rates for all the days falling within a period, and
  - (c) the arm's length rate for any given day (other than the first) falling within the period is not significantly different from the arm's length rate for the day preceding the given day,
- that is the exchange rate to be used as regards the asset, liability or contract.
- (10) In a case where—
- (a) subsection (9) above does not apply,

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- (b) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time, and
  - (c) the rate is an arm's length rate,
- that is the exchange rate to be used as regards the asset, liability or contract.

(11) In a case where—

- (a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,
- (b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company at the translation time,
- (c) the fact that such an exchange rate is not so used conforms with [<sup>F29</sup>generally accepted accounting practice], and
- (d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(12) In a case where—

- (a) none of subsections (9) to (11) above applies,
- (b) it is the company's normal practice, when using an exchange rate in its accounts, to use a rate which represents an average of exchange rates obtaining for a period, and
- (c) the London closing exchange rate for the two currencies for any given day (other than the first) falling within the relevant period is not significantly different from the London closing exchange rate for the two currencies for the day preceding the given day,

the rate which represents the average of the London closing exchange rates for the currencies for all the days falling within the relevant period is the exchange rate to be used.

(13) In a case where none of subsections (9) to (12) above applies, the London closing exchange rate for the day in which the translation time falls is the exchange rate to be used.

(14) References in subsection (12) above to the relevant period are to the period which—

- (a) begins when the relevant accounting period begins, and
- (b) ends at the end of the day in which the translation time falls;

and the relevant accounting period is the accounting period in which the translation time falls.

#### **Textual Amendments**

**F28** Words in s. 150(6)(c) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F29** Words in s. 150(11)(c) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

#### **Modifications etc. (not altering text)**

**C7** S. 150 modified (23.3.1995) by S.I. 1994/3226, reg. 5



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

<sup>F30</sup> **151** .....

**Textual Amendments**

**F30** S. 151 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Interpretation: companies*

<sup>F31</sup> **152** .....

**Textual Amendments**

**F31** S. 152 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Interpretation: assets, liabilities and contracts*

<sup>F32</sup> **153** .....

**Textual Amendments**

**F32** S. 153 repealed (1.10.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**154 Definitions connected with assets.**

- (1) Subject to the following provisions of this section, a company becomes entitled to an asset when it becomes unconditionally entitled to it.
- (2) In determining whether or not a company is unconditionally entitled to an asset, any transfer by way of security of the asset or of any interest or right in or over the asset shall be ignored.
- (3) Where a company agrees to acquire an asset by transfer it becomes entitled to it when the contract is made and not on a later transfer made pursuant to the contract; but the preceding provisions of this subsection do not apply where the agreement is by way of a currency contract.
- (4) Where a company agrees to dispose of an asset by transfer it ceases to be entitled to it when the contract is made and not on a later transfer made pursuant to the contract.
- (5) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (3) and (4) above it is made when the condition is satisfied.

[<sup>F33</sup>(5A) The question whether a company becomes unconditionally entitled at a particular time to an asset falling within section 153(1)(a) above shall be determined without reference

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to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.

- (5B) Where an asset falling within section 153(1)(a) above consists of a right to interest—
- (a) a company becomes unconditionally entitled to the asset at the time when or (as the case may be) before which the interest is required to be paid to the company, and
  - (b) subsection (5A) above shall not apply.]
- (6) Where a company ceases to be entitled to an asset and at a later time becomes entitled to the same asset, with effect from the later time the asset shall be treated as if it were a different asset.
- (7) In a case where—
- (a) at different times a company becomes entitled to rights to settlement under debts on securities, and
  - (b) the rights are of the same kind,
- the rights shall be treated as different assets and not part of the same asset.
- (8) Whether a transaction involves a company becoming entitled to—
- (a) one asset consisting of a right to settlement under a debt on a security, or
  - (b) a number of such assets,
- shall be determined according to the facts of the case concerned.
- (9) For the purpose of deciding whether rights to settlement under debts on securities of a particular kind are held by a company, rights of that kind acquired earlier shall be treated as disposed of before rights of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.
- (10) For the purpose of deciding whether shares of a particular kind are held by a company, shares of that kind acquired earlier shall be treated as disposed of before shares of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.
- (11) In a case where—
- (a) a rule is used for the purpose mentioned in subsection (9) or (10) above when the company's accounts are prepared,
  - (b) the rule differs from that contained in the subsection, and
  - (c) the accounts are prepared in accordance with [<sup>F34</sup>generally accepted accounting practice],
- the rule used when the accounts are prepared (and not the rule in the subsection) shall be used for the purpose.
- (12) In a case where—
- (a) a company would (apart from this subsection) become entitled to an asset at a particular time (the later time) by virtue of the preceding provisions of this section,
  - (b) the asset falls within section 153(1)(a) above,
  - (c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the earlier time) earlier than the later time, and
  - (d) the accounts are drawn up in accordance with [<sup>F34</sup>generally accepted accounting practice],

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the company shall be taken to have become entitled to the asset at the earlier time and not at the later time.

[<sup>F35</sup>(12A) So much of any asset as consists in a right to receive interest as respects which any sums fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be an asset to which the company became entitled at the following time (instead of the time for which subsection (12) above provides), that is to say—

- (a) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and
- (b) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable.]

(13) Where subsection (12) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

- (a) such amount as the company treats as the nominal amount in its accounts, or
- (b) such amount as it would so treat in accordance with [<sup>F34</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).

[<sup>F36</sup>(13A) In a case where—

- (a) a company would (apart from this subsection) become entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with [<sup>F37</sup>generally accepted accounting practice],

the company shall be taken to become entitled to the asset at the later time and not at the earlier time.

(13B) In a case where—

- (a) a company would (apart from this subsection) cease to be entitled to an asset at a particular time (the earlier time) by virtue of subsections (1) to (11) above,
- (b) the asset falls within section 153(1)(a) above and the debt concerned is a debt on a security, or the asset is a share,
- (c) the time at which the company, in drawing up its accounts, regards itself as ceasing to be entitled to the asset is a time (the later time) later than the earlier time, and
- (d) the accounts are drawn up in accordance with [<sup>F37</sup>generally accepted accounting practice],

the company shall be taken to cease to be entitled to the asset at the later time and not at the earlier time.]

(14) A company holds an asset at a particular time if it is entitled to it at that time.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

### Textual Amendments

- F33** S. 154(5A)(5B) inserted (3.5.1994) by 1994 c. 9, s. 114(1)  
**F34** Words in s. 154(11)(c)(12)(d)(13)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)  
**F35** S. 154(12A) inserted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 71 (with ss. 80-105)  
**F36** S. 154(13A)(13B) inserted (3.5.1994) by 1994 c. 9, s. 114(2)  
**F37** Words in s. 154(13A)(d)(13B)(d) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

## 155 Definitions connected with liabilities.

- (1) Subject to the following provisions of this section, a company becomes subject to a liability falling within section 153(2)(a) above when it becomes unconditionally subject to it.
  - (2) Where a company agrees to acquire a liability falling within section 153(2)(a) above by transfer it becomes subject to it when the contract is made and not on a later transfer made pursuant to the contract.
  - (3) Where a company agrees to dispose of a liability falling within section 153(2)(a) above by transfer it ceases to be subject to it when the contract is made and not on a later transfer made pursuant to the contract.
  - (4) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (2) and (3) above it is made when the condition is satisfied.
- [<sup>F38</sup>(4A) The question whether a company becomes unconditionally subject at a particular time to a liability falling within section 153(2)(a) above shall be determined without reference to the fact that there is or is not a later time when, or before which, the whole or any part of the debt is required to be paid.
- (4B) Where a liability falling within section 153(2)(a) above consists of a duty to pay interest—
- (a) a company becomes unconditionally subject to the liability at the time when or (as the case may be) before which the company is required to pay the interest, and
  - (b) subsection (4A) above shall not apply.]
- (5) Where a company ceases to be subject to a liability falling within section 153(2)(a) above and at a later time becomes subject to the same liability, with effect from the later time the liability shall be treated as if it were a different liability.
  - (6) A company becomes subject to a liability falling within section 153(2)(b) above at the time with effect from which it makes the provision.
  - (7) A company ceases to be subject to a liability falling within section 153(2)(b) above at the time with effect from which it deletes the provision or (if different) the time with effect from which it would delete the provision under [<sup>F39</sup>generally accepted accounting practice].
  - (8) Where a company makes a provision falling within section 153(2)(b) above and later changes the amount, the company shall be treated as—
    - (a) deleting (with effect from the time when the change becomes effective) the provision representing the amount before the change, and

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- (b) making (with effect from that time) a new provision representing the amount as changed;  
and so on for further changes.
- (9) A company ceases to be subject to a liability falling within section 153(2)(c) above when it becomes entitled to the right concerned, unless it ceases to be subject to the liability earlier apart from this subsection.
- (10) A company ceases to be subject to a liability falling within section 153(2)(d) above when it becomes entitled to the share or shares, unless it ceases to be subject to the liability earlier apart from this subsection.
- (11) In a case where—
- (a) a company would (apart from this subsection) become subject to a liability at a particular time (the later time) by virtue of the preceding provisions of this section,
  - (b) the liability falls within section 153(2)(a) above,
  - (c) the time at which the company, in drawing up its accounts, regards itself as becoming subject to the liability is a time (the earlier time) earlier than the later time, and
  - (d) the accounts are drawn up in accordance with [<sup>F39</sup>generally accepted accounting practice],
- the company shall be taken to have become subject to the liability at the earlier time and not at the later time.
- [<sup>F40</sup>(11A) So much of any liability consisting in a liability to pay interest as respects which debits fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be a liability to which the company became subject at the following time (instead of at the time for which subsection (11) above provides), that is to say—
- (a) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and
  - (b) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable.]
- (12) Where subsection (11) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—
- (a) such amount as the company treats as the nominal amount in its accounts, or
  - (b) such amount as it would so treat in accordance with [<sup>F39</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).
- (13) A company owes a liability at a particular time if it is subject to it at that time.

#### Textual Amendments

**F38** S. 155(4A)(4B) inserted (3.5.1994) by 1994 c. 9, s. 114(3)

**F39** Words in s. 155(7)(11)(d)(12)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F40** S. 155(11A) inserted (29.4.1996) by 1996 c. 8, s. 104, Sch. 14 para. 72 (with ss. 80-105)

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

## 156 Assets and liabilities: other matters.

- (1) Each of the following questions shall be determined according to the facts of the case concerned—
- (a) whether a transaction (or series of transactions) involves the creation of one asset consisting of a right to settlement under a debt or a number of assets consisting of a number of such rights;
  - (b) whether a transaction (or series of transactions) involves the creation of one liability consisting of a duty to settle under a debt or a number of liabilities consisting of a number of such duties;
  - (c) whether a transaction (or series of transactions) involves the creation of both an asset (or assets) held and a liability (or liabilities) owed by the same company.
- (2) Subsection (3) below applies where—
- (a) a company, in drawing up its accounts, regards itself as becoming entitled or subject to an asset or liability at a particular time,
  - (b) the company, in drawing up its accounts, regards itself as ceasing to be entitled or subject to the asset or liability at a later time,
  - (c) at the time mentioned in paragraph (a) above it could reasonably be expected that the company would become entitled or subject to such an asset or liability,
  - (d) the asset or liability does not in fact come into existence before the later time but (if it did) it would fall within section 153(1)(a) or (2)(a) above, and
  - (e) the accounts are drawn up in accordance with [<sup>F41</sup>generally accepted accounting practice].
- (3) The company shall be taken to—
- (a) become entitled or subject to such an asset or liability at the time it regards itself as becoming so entitled or subject, and
  - (b) cease to be entitled or subject to such an asset or liability at the time it regards itself as ceasing to be so entitled or subject.
- (4) Where subsection (3) above applies, as regards any time beginning with the time mentioned in subsection (3)(a) and ending with the time mentioned in subsection (3)(b) the nominal amount of the debt shall be taken to be—
- (a) such amount as the company treats as the nominal amount in its accounts, or
  - (b) such amount as it would so treat in accordance with [<sup>F41</sup>generally accepted accounting practice] (if that amount is different from the amount found under paragraph (a) above).

### Textual Amendments

**F41** Words in s. 156(2)(e)(4)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

<sup>F42</sup>157 .....

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F42** S. 157 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Interpretation: other provisions*

<sup>F43</sup> **158** .....

**Textual Amendments**

**F43** S. 158 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**159 Basic valuation.**

- (1) Subject to the following provisions of this section, the basic valuation of an asset or liability is—
  - (a) such valuation as the company puts on it with regard to the time immediately after the company becomes entitled or subject to it, or
  - (b) such valuation as the company would put on it with regard to that time under [<sup>F44</sup>generally accepted accounting practice], if that valuation is different from that found under paragraph (a) above.
- (2) Where (apart from this subsection) the valuation under subsection (1) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day in which the time mentioned in subsection (1) above falls.
- (3) The basic valuation of a liability falling within section 153(2)(c) or (d) above is the consideration for the company becoming subject to the liability; and any consideration or part that is not pecuniary shall be taken to be equal to its open market value—
  - (a) found at the time when the company becomes subject to the liability, and
  - (b) if part of the consideration is pecuniary, expressed in the same currency as that part.
- (4) Where (apart from this subsection) the valuation under subsection (3) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the company becomes subject to the liability.
- [<sup>F45</sup>(5) Where—
  - (a) a company becomes entitled, on any transfer by virtue of which it becomes a party to a loan relationship, to a right of settlement under a qualifying debt on a security, and

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

- (b) that transfer is a transfer with accrued interest, the basic valuation of that right shall be found by taking the consideration for the company’s becoming entitled to the right and then deducting the amount of the accrued interest the right to which is transferred.]
- (10) Subsections (11) and (12) below apply where—
  - (a) section 127 above applies as regards an asset or liability for an accrual period (the earlier period), and
  - (b) section 125 or 127 above applies as regards the asset or liability for the next accrual period (the later period).
- (11) As regards the later period the basic valuation of the asset or liability shall be taken to be—
  - (a) the nominal amount of the debt outstanding immediately before the beginning of the later period, or
  - (b) if section 127(7) above also applies as regards the earlier period, the amount found under section 127(10) for that period.
- (12) As regards an accrual period which falls after the later period the basic valuation of the asset or liability shall be the amount found under subsection (11) above, subject to any subsequent application of that subsection.

**Textual Amendments**

**F44** Words in s. 159(1)(b) substituted (24.7.2002) by 2002 c. 23, s. 103(4)(b)

**F45** S. 159(5) substituted (29.4.1996 but without application in relation to transfers before 1.4.1996) for s. 159(5)-(9) by 1996 c. 8, s. 104, Sch. 14 para. 73 (with ss. 80-105)

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**Modifications etc. (not altering text)**

**C8** S. 159 modified (23.3.1995) by S.I. 1994/3226, regs. 6(1)(6), 8(5)  
S. 159 excluded (23.3.1995) by S.I. 1994/3226, reg. 6(3)

<sup>F46</sup> 160 .....

**Textual Amendments**

**F46** S. 160 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

<sup>F47</sup> 161 .....

**Textual Amendments**

**F47** S. 161 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

<sup>F48</sup> 162 .....



*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

**Textual Amendments**

**F48** S. 162 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F49</sup> **163** .....

**Textual Amendments**

**F49** S. 163 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F50</sup> **164** .....

**Textual Amendments**

**F50** S. 164 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Miscellaneous*

<sup>F51</sup> **165** .....

**Textual Amendments**

**F51** S. 165 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F52</sup> **166** .....

**Textual Amendments**

**F52** S. 166 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

<sup>F53</sup> **167** .....

**Textual Amendments**

**F53** S. 167 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, Chapter II. (See end of Document for details)*

F54 **168** .....

**Textual Amendments**

**F54** S. 168 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F55 **168A**.....

**Textual Amendments**

**F55** S. 168A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F56 **169** .....

**Textual Amendments**

**F56** S. 169 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

**170 Amendments.**

Schedule 18 to this Act (which contains amendments) shall have effect.

**Status:**

Point in time view as at 24/07/2002.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1993, Chapter II.