



British Technology Group Act 1991

1991 CHAPTER 66

Financial provisions relating to successor company

8 Financial structure of successor company

- (1) If the aggregate nominal value of the securities of the successor company issued in pursuance of section 3 above is for the time being less than the amount of the reserve and public dividend capital extinguished by virtue of section 2 above a sum equal to the amount of the difference shall be carried by the successor company to a reserve ("the statutory reserve").
- (2) The statutory reserve may only be applied by the successor company in paying up unissued shares of the company to be allotted to its members as fully paid bonus shares except to the extent that the Secretary of State directs, with the consent of the Treasury, that it may be applied as if it were profits available for distribution within the meaning of section 263(1) of the Companies Act 1985 (distributions to be made out of profits).
- (3) No direction shall be given by the Secretary of State under subsection (2) above at a time when the successor company has ceased to be wholly owned by the Crown.
- (4) Notwithstanding subsection (2) above, no part of the statutory reserve shall count as an undistributable reserve of the successor company for the purposes of section 264(3)(d) of the Companies Act 1985 (restriction on distribution of assets); but for the purpose of determining under section 264 whether the successor company may make a distribution at any time, any amount for the time being standing to the credit of the statutory reserve (excluding any amount which under subsection (2) above is authorised to be, but has not yet been, applied as if it were profits available for distribution) shall be treated for the purposes of section 264(3)(c) as if it were unrealised profits of the company.
- (5) For the purposes of any statutory accounts of the successor company—
 - (a) all the property, rights and liabilities to which the Corporation or Board was entitled or subject immediately before the end of the last financial year of the Corporation or Board ending before the appointed day shall be taken to have been vested in the successor company by virtue of section 1 above, and to have been so vested immediately after the end of that year; and

- (b) the value or amount (as at the time of vesting) of any asset or liability of the Corporation or Board taken to have been vested in the successor company by virtue of paragraph (a) above shall be taken to be the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by the Corporation or Board in respect of the financial year referred to in that paragraph.
- (6) For the purposes of any statutory accounts of the successor company the amount to be included in respect of any item shall be determined as if anything done by the Corporation or Board (whether by way of acquiring, revaluing or disposing of any asset, or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included from time to time in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the Corporation or Board had been realised and retained by the company.

- (7) References in this section to the statutory accounts of the successor company are to any accounts prepared by that company for the purposes of any provision of the Companies Act 1985 (including group accounts).

9 Loans by Secretary of State to successor company

- (1) As from the appointed day the Secretary of State may, with the consent of the Treasury, make loans to the successor company; but no loan shall be made by him under this section at a time when that company has ceased to be wholly owned by the Crown.
- (2) The Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under this section.
- (3) Any loan made by the Secretary of State under this section shall be repaid to him at such times and by such methods, and interest on it shall be paid to him at such rates and at such times, as he may, with the consent of the Treasury, from time to time direct.
- (4) Any sums received by the Secretary of State under subsection (3) above shall be paid into the National Loans Fund.
- (5) The Secretary of State shall in respect of each financial year prepare, in such form and manner as the Treasury may direct, an account of—
- (a) sums issued to him under subsection (2) above;
 - (b) sums received by him under subsection (3) above; and
 - (c) the disposal by him of sums so issued or received;

and shall send the account to the Comptroller and Auditor General not later than the end of November in the following financial year; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

10 Temporary restrictions on successor company's borrowings etc

- (1) If the articles of association of the successor company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may during any period be borrowed or raised by

the successor company and its subsidiaries, taken as a whole, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.

- (2) For the purposes of this section any alteration of the articles of association of the successor company which—
- (a) has the effect of conferring or extending any such power as is mentioned in subsection (1) above, and
 - (b) is made at a time when that company has ceased to be wholly owned by the Crown,
- shall be disregarded.