



Taxation of Chargeable Gains Act 1992

1992 CHAPTER 12

PART VI

COMPANIES, OIL, INSURANCE ETC.

CHAPTER III

INSURANCE

204 Policies of insurance.

- (1) The rights of the insurer under any policy of insurance shall not constitute an asset on the disposal of which a gain may accrue, whether the risks insured relate to property or not; and the rights of the insured under any policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets shall constitute an asset on the disposal of which a gain may accrue only to the extent that those rights relate to assets on the disposal of which a gain may accrue or might have accrued.
- (2) Notwithstanding subsection (1) above, sums received under a policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets are for the purposes of this Act, and in particular for the purposes of section 22, sums derived from the assets.
- (3) Where any investments or other assets are or have been, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder on or after 6th April 1967, the policy holder's acquisition of the assets and the disposal of them to him shall be deemed to be, for the purposes of this Act, for a consideration equal to the market value of the assets.
- (4) In subsections (1) and (2) above "policy of insurance" does not include a policy of assurance on human life and in subsection (3) "life assurance business" and "insurance company" have the same meaning as in Chapter I of Part XII of the Taxes Act.

Status: Point in time view as at 03/01/1995.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Chapter III is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

205 Disallowance of insurance premiums as expenses.

Without prejudice to the provisions of section 39, there shall be excluded from the sums allowable as a deduction in the computation of the gain accruing on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

F1 206

Textual Amendments

F1 S. 206 repealed (27.7.1993, the repeal of subsections (2)-(5) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsection (1) having effect for the year 1992-93 and subsequent years of assessment, as mentioned in Notes 4, 5) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Notes 4, 5](#); S. 206 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34, ss. 183\(7\), 184\(3\)](#)

F2 207

Textual Amendments

F2 S. 207 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Note 2) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Note 2](#)

F3 208

Textual Amendments

F3 S. 208 repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years as mentioned in Sch. 23, Pt. III Table (12) Note 2) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Note 2](#)

F4 209

Textual Amendments

F4 S. 209 repealed (27.7.1993, the repeal of subsections (1)(2)(6) having effect for the year 1994-95 and subsequent years of assessment, the repeal of subsections (3)-(5) having effect for the year 1992-3 and subsequent years of assessment, as mentioned in Notes 4, 5) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III Table\(12\) Notes 4, 5](#); s. 209 further amended (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment as mentioned in s. 184(3)) by [1993 c. 34, ss. 183\(8\)\(a\)\(b\), 184\(3\)](#)

210 Life assurance and deferred annuities.

(1) This section has effect as respects any policy of assurance or contract for a deferred annuity on the life of any person.

Status: Point in time view as at 03/01/1995.

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- (2) No chargeable gain shall accrue on the disposal of, or of an interest in, the rights under any such policy of assurance or contract except where the person making the disposal is not the original beneficial owner and acquired the rights or interest for a consideration in money or money's worth.
- (3) Subject to subsection (2) above, the occasion of—
 - (a) the payment of the sum or sums assured by a policy of assurance, or
 - (b) the transfer of investments or other assets to the owner of a policy of assurance in accordance with the policy,and the occasion of the surrender of a policy of assurance, shall be the occasion of a disposal of the rights under the policy of assurance.
- (4) Subject to subsection (2) above, the occasion of the payment of the first instalment of a deferred annuity, and the occasion of the surrender of the rights under a contract for a deferred annuity, shall be the occasion of a disposal of the rights under the contract for a deferred annuity and the amount of the consideration for the disposal of a contract for a deferred annuity shall be the market value at that time of the right to that and further instalments of the annuity.

211 Transfers of business.

- (1) This section applies where there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the ^{M1}Insurance Companies Act 1982.
- (2) Subject to subsection (3) below, where this section applies section 139 shall not be prevented from having effect in relation to any asset included in the transfer by reason that—
 - (a) the transfer is not part of a scheme of reconstruction or amalgamation,
 - (b) the condition in paragraph [^{F5}(b)] of subsection (1) of that section is not satisfied, or
 - (c) the asset is within subsection (2) of that section;and where section 139 applies by virtue of paragraph (a) above the references in subsection (5) of that section to the reconstruction or amalgamation shall be construed as references to the transfer.
- (3) Section 139 shall not have effect in relation to an asset by virtue of subsection (2) above unless—
 - (a) any gain accruing to the transferor—
 - (i) on the disposal of the asset in accordance with the scheme, or
 - (ii) where that disposal occurs after the transfer of business has taken place, on a disposal of the asset immediately before that transfer, and
 - (b) any gain accruing to the transferee on a disposal of the asset immediately after its acquisition in accordance with the scheme,would be a chargeable gain which would form part of its profits for corporation tax purposes ^{F6}... .

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Textual Amendments

- F5 Words in s. 211(2)(b) substituted (27.7.1993 with application as mentioned in s. 90(2)) by 1993 c. 34, s. 90(1)(2)
F6 Words in s. 211(3) repealed (with effect in accordance with s. 251(1)(a)(11) of the amending Act) by Finance Act 1994 (c. 9), s. 251(11), Sch. 26 Pt. VIII(1)

Marginal Citations

- M1 1982 c. 50.

212 Annual deemed disposal of holdings of unit trusts etc.

- (1) Where at the end of an accounting period the assets of an insurance company’s long term business fund include—
(a) rights under an authorised unit trust, or
(b) relevant interests in an offshore fund,

then, subject to the following provisions of this section and to section 213, the company shall be deemed for the purposes of corporation tax on capital gains to have disposed of and immediately reacquired each of the assets concerned at its market value at that time.

- (2) Subsection (1) above shall not apply to assets linked solely to pension business or to assets of the overseas life assurance fund, F7 . . .

F8(3)

F8(4)

- (5) For the purposes of this section an interest is a “relevant interest in an offshore fund” if—
(a) it is a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act, or
(b) it would be such an interest if the shares and interests excluded by subsections (6) and (8) of section 759 of that Act were limited to shares or interests in trading companies.

F8(6)

- (7) In this section “trading company” means a company—
(a) whose business consists of the carrying on of insurance business, or the carrying on of any other trade which does not consist to any extent of dealing in commodities, currency, securities, debts or other assets of a financial nature, or
(b) whose business consists wholly or mainly of the holding of shares or securities of trading companies which are its 90 per cent. subsidiaries;

and in this section and sections 213 [F9 to 214A] other expressions have the same meanings as in Chapter I of Part XII of the Taxes Act.

F10(8)

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Textual Amendments

- F7** Words in s. 212(2) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(b), 213, **Sch. 23 Pt. III** Table(8) Note
- F8** S. 212(3)(4)(6) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, ss. 91(2)(b), 213, **Sch. 23 Pt. III** Table(8) Note
- F9** Words in s. 212(7) substituted (27.7.1993) by 1993 c. 37, s. 91(3)
- F10** S. 212(8) repealed (27.7.1993 with effect as mentioned in s. 91(1)) by 1993 c. 34, ss. 91(1), 213, **Sch. 23 Pt. III** Table(8) Note

Modifications etc. (not altering text)

- C1** S. 212 modified (31.7.1992) by S.I. 1992/1655, arts. 1, 21
S. 212 amended (27.7.1993) by 1993 c. 34, s. 91(1)
S. 212 excluded (27.7.1993) by 1993 c. 34, s. 91(1)

213 Spreading of gains and losses under section 212.

- (1) Any chargeable gains or allowable losses which would otherwise accrue on disposals deemed by virtue of section 212 to have been made at the end of a company's accounting period shall be treated as not accruing to it, but instead—
- there shall be ascertained the difference (“the net amount”) between the aggregate of those gains and the aggregate of those losses, and
 - one-seventh of the net amount shall be treated as a chargeable gain or, where it represents an excess of losses over gains, as an allowable loss accruing to the company at the end of the accounting period, and
 - a further one-seventh shall be treated as a chargeable gain or, as the case may be, as an allowable loss accruing at the end of each succeeding accounting period until the whole amount has been accounted for.

[^{F11}(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

- are referable to basic life assurance and general annuity business; or
- would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing.]

- (2) For any accounting period of less than one year, the fraction of one-seventh referred to in subsection (1)(c) above shall be proportionately reduced; and where this subsection has had effect in relation to any accounting period before the last for which subsection (1)(c) above applies, the fraction treated as accruing at the end of that last accounting period shall also be adjusted appropriately.
- (3) Where—
- the net amount for an accounting period of an insurance company represents an excess of gains over losses,

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- (b) the net amount for one of the next 6 accounting periods (after taking account of any reductions made by virtue of this subsection) represents an excess of losses over gains,
- (c) there is (after taking account of any such reductions) no net amount for any intervening accounting period, and
- (d) within 2 years after the end of the later accounting period the company makes a claim for the purpose in respect of the whole or part of the net amount for that period,

the net amounts for both the earlier and the later period shall be reduced by the amount in respect of which the claim is made.

- (4) Subject to subsection (5) below, where a company ceases to carry on long term business before the end of the last of the accounting periods for which subsection (1) (c) above would apply in relation to a net amount, the fraction of that amount that is treated as accruing at the end of the accounting period ending with the cessation shall be such as to secure that the whole of the net amount has been accounted for.
- (5) Where there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the ^{M2}Insurance Companies Act 1982, any chargeable gain or allowable loss which (assuming that the transferor had continued to carry on the business transferred) would have accrued to the transferor by virtue of subsection (1) above after the transfer shall instead be deemed to accrue to the transferee.
- (6) Where subsection (5) above has effect, the amount of the gain or loss accruing at the end of the first accounting period of the transferee ending after the day when the transfer takes place shall be calculated as if that accounting period began with the day after the transfer.
- (7) Where the transfer is of part only of the transferor’s long term business, subsection (5) above shall apply only to such part of any amount to which it would otherwise apply as is appropriate.
- (8) Any question arising as to the operation of subsection (7) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

^{F12}(9)

Textual Amendments	
F11	S. 213(1A) inserted (27.7.1993) by 1993 c. 37, s. 91(4)
F12	S. 213(9) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 34, s. 213, Sch. 23 Pt. III Table(8) Note
Marginal Citations	
M2	1982 c. 50.

214 Transitional provisions.

- (1) In this section—

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- (a) “section 212 assets” means rights under authorised unit trusts and relevant interests in offshore funds which are assets of a company’s long term business fund;
 - (b) “linked section 212 assets” means section 212 assets which are linked assets;
 - (c) “relevant linked liabilities”, in relation to a company, means such of the liabilities of its basic life assurance and general annuity business as are liabilities in respect of benefits under pre-commencement policies or contracts, being benefits to be determined by reference to the value of linked assets;
 - (d) “pre-commencement policies or contracts” means—
 - (i) policies issued in respect of insurances made before 1st April 1990, and
 - (ii) annuity contracts made before that date, but excluding policies or annuity contracts varied on or after that date so as to increase the benefits secured or to extend the term of the insurance or annuity (any exercise of rights conferred by a policy or annuity contract being regarded for this purpose as a variation);
 - (e) “basic life assurance and general annuity business” means life assurance business, other than pension business and overseas life assurance business.
- (2) The assets which are to be regarded for the purposes of this section as linked solely to an insurance company’s basic life assurance and general annuity business at any time before the first accounting period of the company which begins on or after 1st January 1992 are all the assets which at that time—
- (a) are or were linked solely to the company’s basic life assurance business or general annuity business, or
 - (b) although not falling within paragraph (a) above, would be, or would have been, regarded as linked solely to the company’s basic life assurance business, were its general annuity business treated as forming, or having at all times formed, part of its basic life assurance business and as not being a separate category of business.

^{F13}(3)

^{F13}(4)

^{F13}(5)

- (6) Subject to subsection (7) below, subsection (9) below applies where—
- (a) after the end of 1989 [^{F14}and before the time when it is first deemed under section 212 to have made a disposal of any assets] an insurance company exchanges section 212 assets (“the old assets”) for other assets (“the new assets”) to be held as assets of the long term business fund,
 - (b) the new assets are not section 212 assets but are assets on the disposal of which any gains accruing would be chargeable gains,
 - (c) both the old assets and the new assets are linked solely to basic life assurance and general annuity business, or both are neither linked solely to basic life assurance and general annuity business or pension business nor assets of the overseas life assurance fund, and
 - (d) the company makes a claim for the purpose within 2 years after the end of the accounting period in which the exchange occurs.

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- (7) Subsection (6) above shall have effect in relation to old assets only to the extent that their amount, when added to the amount of any assets to which subsection (9) below has already applied and which are assets of the same class, does not exceed the aggregate of—
- (a) the amount of the assets of the same class included in the long term business fund at the beginning of 1990, other than assets linked solely to pension business and assets of the overseas life assurance fund, and
 - (b) 110 per cent. of the amount of the assets of that class which represents any subsequent increases in the company's relevant linked liabilities in respect of benefits to be determined by reference to the value of assets of that class.
- (8) The reference in subsection (7)(b) above to a subsequent increase in liabilities is a reference to any amount by which the liabilities at the end of an accounting period ending after 31st December 1989 exceed those at the beginning of the period (or at the end of 1989 if that is later); and for the purposes of that provision the amount of assets which represents an increase in liabilities is the excess of—
- (a) the amount of assets whose value at the later time is equivalent to the liabilities at that time, over
 - (b) the amount of assets whose value at the earlier time is equivalent to the liabilities at that time.
- (9) Where this subsection applies, the insurance company (but not any other party to the exchange) shall be treated for the purposes of corporation tax on capital gains as if the exchange had not involved a disposal of the old assets or an acquisition of the new, but as if the old and the new assets were the same assets acquired as the old assets were acquired.
- (10) References in subsections (6) to (9) above to the exchange of assets include references to the case where the consideration obtained for the disposal of assets (otherwise than by way of an exchange within subsection (6)) is applied in acquiring other assets within 6 months after the disposal; and for the purposes of those subsections the time when an exchange occurs shall be taken to be the time when the old assets are disposed of.
- (11) Where at any time after the end of 1989 there is a transfer of long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the ^{M3}Insurance Companies Act 1982—
- (a) if the transfer is of the whole of the long term business of the transferor, subsections (1) to (10) above shall have effect in relation to the assets of the transferee as if that business had at all material times been carried on by him;
 - (b) if the transfer is of part of the long term business of the transferor, those subsections shall have effect in relation to assets of the transferor and the transferee to such extent as is appropriate;

and any question arising as to the operation of paragraph (b) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and the transferee shall be entitled to appear and be heard or to make representations in writing.

Textual Amendments

F13 S. 214(3)-(5) repealed (27.7.1993 with effect in relation to accounting periods beginning on or after 1.1.1993) by 1993 c. 37, ss. 91(5), 213, **Sch. 23 Pt. III** Table(8) Note

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F14 Words in s. 214(6)(a) inserted (27.7.1993) by 1993 c. 34, s. 91(6)

Marginal Citations

M3 1982 c. 50.

[214A ^{F15}**Further transitional provisions.**

- (1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 (“the relevant period”)—
 - (a) an insurance company makes a claim for the purposes of this section in relation to that period; and
 - (b) that period is one of the company’s first eight accounting periods after the end of 1992.
- (2) Where this section applies, section 213 shall have effect as if—
 - (a) the amount of the chargeable gains which—
 - (i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and
 - (ii) satisfy the condition specified in paragraph (a) of section 213(1A), were reduced by the protected proportion of that amount; and
 - (b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.
- (3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left(A + \frac{B \times C}{D} \right) \times \frac{E}{F} \times \frac{G}{8}$$

- (4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company’s basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

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E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

- (5) For the purposes of this section and subject to subsection (6) below—
- (a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and
 - (b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—
 - (i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and
 - (ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.
- (6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.
- (7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company (“the transferor”) to another company (“the transferee”) in accordance with a scheme sanctioned by a court under section 49 of the ^{M4}Insurance Companies Act 1982, this section shall have effect so that—
- (a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—
 - (i) by the transferee, or
 - (ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,
 as if there had been no deemed disposals under section 212 before the transfer; and
 - (b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

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- (8) Where the transfer is of part only of the transferor's long term business, subsection (7) (b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.
- (9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.
- (10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—
- (a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and
 - (b) the accounting periods of the transferee ending after the day of the transfer, and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.
- (11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—
- (a) linked solely to any pension business or long term business of that company other than life assurance business; nor
 - (b) assets of the company's overseas life assurance fund;
- and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.
- (12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly.]

Textual Amendments

F15 S. 214A inserted (27.7.1993) by 1993 c. 34, s. 91(5)

Marginal Citations

M4 1982 c. 50.

Status: Point in time view as at 03/01/1995.

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[214B ^{F16}Modification of Act in relation to overseas life insurance companies.

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect.]

Textual Amendments

F16 S. 214B inserted (27.7.1993) by 1993 c. 34, s.102(1)

Status:

Point in time view as at 03/01/1995.

Changes to legislation:

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