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STATUTORY INSTRUMENTS

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**2002 No. 1969**

**The Exchange Gains and Losses (Transitional Provisions and Savings) Regulations 2002**

**PART 2**

**Saving of the Exchange Gains and Losses (Transitional Provisions) Regulations 1994 with modifications**

**Introduction**

2. The Exchange Gains and Losses (Transitional Provisions) Regulations 1994(1) are modified in accordance with regulations 3 to 11 below and, as modified, continue to have effect (notwithstanding the repeal of sections 164(14), 165(4) to (6) and 167(1) and (4) to (6) of, and Schedule 16 to, the Finance Act 1993(2) by sections 79(1)(b) and 141 of, and Part 3(10) of Schedule 40 to, the Finance Act 2002).

**Modification of regulation 1**

3. In regulation 1(3)(3)—

(a) for sub-paragraph (g) substitute—

“(g) “a regulation 6(3) asset” means an existing asset the basic valuation of which was determined for the purposes of Chapter II in accordance with regulation 6(3) of these Regulations;”;

(b) at the end of sub-paragraph (h) add

“; and

(i) “the relevant accounting period”, in relation to a company, means the company’s first accounting period to begin on or after 1st October 2002.”.

**Modification of regulation 2**

4. In regulation 2(2)—

(a) omit “Sections 136, 137 and 139 to 141 of the 1993 Act;”;

(b) omit “The Exchange Gains and Losses (Deferral of Gains and Losses) Regulations 1994.”.

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(1) S.I.1994/3226, amended by S.I. 1995/408 and 1996/1349.

(2) 1993 c. 34. Subsections (5A) and (5B) were inserted in section 167 by paragraph 74 of Schedule 14 to the Finance Act 1996 (c. 8) and those subsections were amended, and subsection (5C) inserted in section 167, by section 106(15) of the Finance Act 2000 (c. 17).

(3) Regulation 1(3) was amended by regulation 3 of S.I. 1996/1349.

### **Omission of regulations 3 to 6**

5. Omit regulations 3 to 6(4).

### **Modification of regulation 7**

6. In regulation 7(2)—
  - (a) after the definition of “the cumulative taxed loss” insert—

““the final accounting period”, in relation to a company, means the company’s accounting period preceding the relevant accounting period;”;
  - (b) omit the words from “and any reference” to the end.

### **Modification of regulation 8**

7. In regulation 8(5) for “above” substitute “of these Regulations”.

### **Modification of regulation 13**

- 8.—(1) Modify regulation 13(5) as follows.
  - (2) In paragraph (1) for “14(1) and 15(1)” substitute “14 and 14A”.
  - (3) After paragraph (1) insert—

“(1A) For the purposes of paragraph (1)(a) above, the final accounting period shall be treated as the last accrual period as respects any asset or liability held or owed by the company immediately after the end of the final accounting period.”.
  - (4) In paragraphs (2)(a), (b) and (c) and (3)(a), (b) and (c) for “before the end of the last accrual period” substitute “after the end of the final accounting period”.
  - (5) For paragraph (4) substitute—

“(4) In paragraphs (2) and (3) above, a relevant gain or loss in relation to a regulation 6(3) asset is a chargeable gain or an allowable loss.

(4A) In relation to any asset other than a regulation 6(3) asset or any liability, an amount equal to the amount of any relevant gain or loss that is deemed to accrue to the company under paragraph (2) or (3) above shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (according to whether it is a relevant gain or loss)—

    - (a) as a credit in respect of a loan relationship of the company, or
    - (b) as a debit in respect of a loan relationship of the company,

which falls to be brought into account under section 82(2) of that Act(6).”.
  - (6) Omit paragraphs (5) to (8).

### **Substitution of regulation 14**

9. For regulation 14(7) substitute—

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(4) Regulation 6 was amended by regulation 4 of S.I. 1996/1349.  
(5) Regulation 13 was amended by regulation 6 of S.I. 1996/1349.  
(6) Section 82(2) was amended by paragraph 11 of Schedule 7 to the Finance Act 1998 (c. 36).  
(7) Regulation 14 was amended by regulation 7 of S.I. 1996/1349.

**“Elections to defer bringing into account relevant gains and losses deemed to accrue immediately after the end of the final accounting period**

14.—(1) In any case where, apart from this regulation, relevant gains or losses would accrue to a company immediately after the end of the final accounting period by virtue of regulation 13, the company may elect, by notice to the inspector within two years of the end of the final accounting period, that this regulation shall apply as respects—

- (a) subject to paragraph (3) below, all relevant gains or losses to which paragraph (4) of regulation 13 would apply;
- (b) all relevant gains or losses to which paragraph (4A) of that regulation would apply; or
- (c) both.

An election under this paragraph shall be irrevocable.

(2) Where an election is made under paragraph (1) above, every gain or loss to which this regulation applies shall be treated as accruing only when the asset or liability to which the gain or loss relates ceases to be held or owed by the company.

(3) No election may be made under paragraph (1) above as respects relevant gains or losses to which regulation 13(4) would apply if an election under regulation 14A is made as regards such losses.

**Elections to treat losses deemed to accrue immediately after the end of the final accounting period as debits in respect of loan relationships**

14A.—(1) In any case where—

- (a) apart from this regulation, relevant losses would accrue to a company as respects regulation 6(3) assets immediately after the end of the final accounting period by virtue of regulation 13; and
- (b) if relevant gains would accrue as respects such assets at that time by virtue of that regulation, such losses would exceed them,

the company may elect, by notice to the inspector within two years of the end of the final accounting period, that this regulation shall apply as respects such losses or, in a case where sub-paragraph (b) applies, such losses to the extent that they exceed the relevant gains.

An election under this paragraph shall be irrevocable.

(2) Where an election is made under paragraph (1) above, an amount equal to the amount of the losses to which this regulation applies shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as a debit in respect of a loan relationship of the company for the new accounting period and not falling to be brought into account under section 82(2) of that Act.

**Treatment of losses available to be carried forward at the end of the final accounting period as a result of an election made under regulation 14(5) or 16(1)**

14B.—(1) This regulation applies where, as a result of an election made under regulation 14(5) or 16(1) of these Regulations, an amount of available losses (“the relevant amount”) was available at the end of the final accounting period to be carried forward and, apart from this regulation, to be set against a company’s exchange gains.

(2) Where this regulation applies an amount equal to the relevant amount shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as a debit in respect of a loan relationship of the company for the new accounting period and not falling to be brought into account under section 82(2) of that Act.”.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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**Omission of regulations 15 and 16**

10. Omit regulations 15 and 16(8).

**Omission of Part 4**

11. Omit the whole of Part 4(9).

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(8) Regulation 15 was amended by regulation 8 of S.I. [1996/1349](#).

(9) Part 4 was amended by regulation 2 of S.I. [1995/408](#) and regulation 9 of S.I. [1996/1349](#).