



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART V

#### PROVISIONS RELATING TO THE SCHEDULE E CHARGE

#### CHAPTER IV

#### OTHER EXEMPTIONS AND RELIEFS

*Other expenses, subscriptions etc.*

#### **198 Relief for necessary expenses.**

[<sup>F1</sup>(1) If the holder of an office or employment is obliged to incur and defray out of the emoluments of the office or employment—

- (a) qualifying travelling expenses, or
- (b) any amount (other than qualifying travelling expenses) expended wholly, exclusively and necessarily in the performance of the duties of the office or employment,

there may be deducted from the emoluments to be assessed the amount so incurred and defrayed.

(1A) “Qualifying travelling expenses” means—

- (a) amounts necessarily expended on travelling in the performance of the duties of the office or employment, or
- (b) other expenses of travelling which—
  - (i) are attributable to the necessary attendance at any place of the holder of the office or employment in the performance of the duties of the office or employment, and
  - (ii) are not expenses of ordinary commuting or private travel.

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What is ordinary commuting or private travel for this purpose is defined in Schedule 12A.

- (1B) Expenses of travel by the holder of an office or employment between two places at which he performs duties of different offices or employments under or with companies in the same group are treated as necessarily expended in the performance of the duties which he is to perform at his destination.

For this purpose companies are taken to be members of the same group if, and only if, one is a 51 per cent. subsidiary of the other or both are 51 per cent. subsidiaries of a third company.]

- (2) Subject to subsection (3) below, where the emoluments for any duties do not fall within Case I or II of Schedule E, then in relation to those or any other emoluments of the office or employment, subsection (1) above <sup>F2</sup>. . . shall apply as if the performance of those duties did not belong to that office or employment.
- (3) There may be deducted from any emoluments chargeable under Case III of Schedule E the amount of—
- (a) any expenses defrayed out of those emoluments, and
  - (b) any other expenses defrayed in the United Kingdom in the chargeable period or in an earlier chargeable period in which the holder of the office or employment has been resident in the United Kingdom,

being in either case expenses for which a deduction might have been made under subsection (1) above from emoluments of the office or employment if they had been chargeable under Case I of Schedule E for the chargeable period in which the expenses were incurred; but a deduction shall not be made twice, whether under this subsection or otherwise, in respect of the same expenses from emoluments of the office or employment.

- [<sup>F3</sup>(4) No deduction shall be made under this section in respect of expenditure incurred by—
- (a) a member of the House of Commons, or
  - (b) a member of the Scottish Parliament, or
  - (c) a member of the National Assembly for Wales, or
  - (d) a member of the Northern Ireland Assembly,

in, or in connection with, the provision or use of residential or overnight accommodation to enable him to perform his duties as such a member in or about the place where the body of which he is a member sits or the constituency or region for which he has been returned.]

- [<sup>F4</sup>(5) No deduction may be made under this section in respect of qualifying travelling expenses incurred in connection with the use by an employee or office-holder of a vehicle that is not a company vehicle if—
- (a) mileage allowance payments (within the meaning of section 197AD(2)) are made to that person in respect of the use of the vehicle; or
  - (b) mileage allowance relief is available in respect of the use of the vehicle by that person.

“Company vehicle” has the meaning given by paragraph 6 of Schedule 12AA.]

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**Textual Amendments**

- F1** S. 198(1)(1A)(1B) substituted (with effect in accordance with s. 61(3) of the amending Act) by Finance Act 1998 (c. 36), s. 61(1)
- F2** Words in s. 198(2) repealed (with effect in accordance with s. 579 of the repealing Act) by Capital Allowances Act 2001 (c. 2), s. 580, Sch. 2 para. 25, Sch. 4
- F3** S. 198(4) substituted (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), s. 52(1), Sch. 5 para. 2(2)
- F4** S. 198(5) added (with effect in accordance with s. 57(4) of the amending Act) by Finance Act 2001 (c. 9), Sch. 12 Pt. 2 para. 6

[<sup>F5</sup>198A .....

<sup>F6</sup> .....

**Textual Amendments**

- F5** S. 198A inserted (with effect in accordance with s. 62(5) of the amending Act) by Finance Act 1997 (c. 16), s. 62(2)
- F6** S. 198A repealed (with effect in accordance with Sch. 27 Pt. 3(10) Note of the repealing Act) by Finance Act 1998 (c. 36), s. 165, Sch. 27 Pt. 3(10)

**199 Expenses necessarily incurred and defrayed from official emoluments.**

<sup>M1</sup>(1) Subject to the provisions of subsection (2) below, where the Treasury are satisfied with respect to any class of persons in receipt of any salary, fees or emoluments payable out of the public revenue that such persons are obliged to lay out and expend money wholly, exclusively and necessarily in the performance of the duties in respect of which such salary, fees or emoluments are payable, the Treasury may fix such sum as in the opinion of the Treasury represents a fair equivalent of the average annual amount laid out and so expended by persons of that class, and in charging income tax on that salary or those fees or emoluments there shall be deducted from the amount thereof the sums so fixed by the Treasury.

(2) If any such person would, but for the provisions of subsection (1) above, be entitled to deduct a larger amount than the sum so fixed, that amount may be deducted instead of the sum so fixed.

**Marginal Citations**

**M1** Source—1970 s.191

**<sup>M2</sup>200 Expenses of Members of Parliament.**

[<sup>F7</sup>(1)] An allowance—

- (a) which is paid to a Member of the House of Commons; and
- (b) for which provision is made by resolution of that House, and
- (c) which is expressed to be in respect of additional expenses necessarily incurred by the Member in staying overnight away from his only or main residence for

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the purpose of performing his parliamentary duties, either in the London area, as defined in such a resolution, or in his constituency,  
shall not be regarded as income for any purpose of the Income Tax Acts.

[<sup>F8</sup>(2) A sum which is paid to a Member of the House of Commons in accordance with any resolution of that House providing for Members of that House to be reimbursed in respect of [<sup>F9</sup>EU travel expenses] shall not be regarded as income for any purpose of the Income Tax Acts.

[ For the purposes of subsection (2) above “EU travel expenses” are the cost of, and any  
<sup>F10</sup>(3) additional expenses incurred in, travelling between the United Kingdom and—  
(a) any European Union institution in Brussels, Luxembourg or Strasbourg, or  
(b) the national parliament of another member State [<sup>F11</sup>or of a candidate country].]

[ In subsection (3) above “candidate country” means Bulgaria, Cyprus, the Czech  
<sup>F12</sup>(4) Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia or Turkey.

(5) The Treasury shall by order made by statutory instrument make such amendments to the definition in subsection (4) above as are necessary to secure that the countries listed are those that are from time to time candidates for membership of the European Union.]]

#### Textual Amendments

- F7** S. 200 re-numbered as s. 200(1) (with application in relation to sums paid on or after 1.1.1992) by virtue of 1993 c. 34, s.124
- F8** S. 200(2) inserted (with application in relation to sums paid on or after 1.1.1992) by 1993 c. 34, s.124
- F9** Words in s. 200(2) substituted (with effect in accordance with s. 51(2) of the amending Act) by Finance Act 1999 (c. 16), s. 51(1)
- F10** S. 200(3) inserted (with effect in accordance with s. 51(2) of the amending Act) by Finance Act 1999 (c. 16), s. 51(1)
- F11** Words in s. 200(3)(b) inserted (with effect in accordance with s. 41(4) of the amending Act) by Finance Act 2002 (c. 23), s. 41(2)
- F12** S. 200(4)(5) inserted (with effect in accordance with s. 41(4) of the amending Act) by Finance Act 2002 (c. 23), s. 41(3)

#### Marginal Citations

- M2** Source—1984 s.28(1)

[<sup>F13</sup>**200Z** Expenses of members of Scottish Parliament, National Assembly for Wales or Northern Ireland Assembly.

- (1) This section applies to payments made—  
(a) to members of the Scottish Parliament under section 81(2) of the <sup>M3</sup>Scotland Act 1998,  
(b) to members of the National Assembly for Wales under section 16(2) of the <sup>M4</sup>Government of Wales Act 1998, or  
(c) to members of the Northern Ireland Assembly under section 47(2) of the <sup>M5</sup>Northern Ireland Act 1998.

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(2) If a payment to which this section applies is expressed to be made in respect of necessary overnight expenses or EU travel expenses, the payment shall not be regarded as income for any purpose of the Income Tax Acts.

(3) For the purposes of subsection (2) above—

“necessary overnight expenses” are additional expenses necessarily incurred by the member for the purpose of performing duties as a member in staying overnight away from the member’s only or main residence, either in the area in which the body of which he is a member sits or in the constituency or region for which he has been returned, and

“EU travel expenses” are the cost of, and any additional expenses incurred in, travelling between the United Kingdom and—

- (a) any European Union institution in Brussels, Luxembourg or Strasbourg, or
- (b) the national parliament of another member State [<sup>F14</sup>or of a candidate country].

[ In subsection (3) above “candidate country” means Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia or Turkey.]

(5) The Treasury shall by order made by statutory instrument make such amendments to the definition in subsection (4) above as are necessary to secure that the countries listed are those that are from time to time candidates for membership of the European Union.]]

#### Textual Amendments

- F13** S. 200ZA inserted (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), s. 52(1), Sch. 5 para. 2(1)
- F14** Words in s. 200ZA(3) inserted (with effect in accordance with s. 41(4) of the amending Act) by Finance Act 2002 (c. 23), s. 41(2)
- F15** S. 200ZA(4)(5) inserted (with effect in accordance with s. 41(4) of the amending Act) by Finance Act 2002 (c. 23), s. 41(3)

#### Marginal Citations

- M3** 1998 c.46.
- M4** 1998 c.38.
- M5** 1998 c.47.

#### [<sup>F16</sup>200A] **Incidental benefits for holders of certain offices etc.**

(1) A person holding any of the offices mentioned in subsection (2) below shall not be charged to tax under Schedule E in respect of—

- (a) any transport or subsistence provided or made available by or on behalf of the Crown to the office-holder or any member of his family or household; or
- (b) the payment or reimbursement by or on behalf of the Crown of any expenses incurred in connection with the provision of transport or subsistence to the office-holder or any member of his family or household.

(2) Those offices are—

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- (a) any office in Her Majesty’s Government in the United Kingdom, and
  - (b) any other office which is one of the offices and positions in respect of which salaries are payable under section 1 of the <sup>M6</sup>Ministerial and other Salaries Act 1975 (whether or not the person holding it is a person to whom a salary is paid or payable under the Act) [<sup>F17</sup>, and
  - (c) any office under the <sup>M7</sup>Scotland Act 1998, the <sup>M8</sup>Government of Wales Act 1998 or the <sup>M9</sup>Northern Ireland Act 1998 that corresponds to any of the offices mentioned in paragraph (a) or (b) above.]
- (3) <sup>F18</sup> .....
- (4) References in this section to a member of the family or household of an office-holder shall be construed in accordance with section 168(4).
- (5) References in this section to the provision of transport to any person include references to the following—
- (a) the provision or making available to that person of any car (whether with or without a driver);
  - (b) the provision of any fuel for a car provided or made available to that person;
  - (c) the provision of any other benefit in connection with a car provided or made available to that person.
- (6) In this section—
- “car” means any mechanically propelled road vehicle; and
  - “subsistence” includes food and drink and temporary living accommodation.]

#### Textual Amendments

- F16** S. 200AA inserted (with effect in accordance with s. 108(2) of the amending Act) by Finance Act 1996 (c. 8), s. 108(1)
- F17** S. 200AA(2)(c) and preceding word inserted (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), s. 52(1), Sch. 5 para. 3
- F18** S. 200AA(3) repealed (with effect in accordance with s. 44(6), Sch. 20 Pt. 3(9) Note of the repealing Act) by Finance Act 1999 (c. 16), ss. 44(5), 139, Sch. 20 Pt. 3(9)

#### Marginal Citations

- M6** 1975 c. 27.  
**M7** 1998 c.46.  
**M8** 1998 c.38.  
**M9** 1998 c.47.

#### [<sup>F19</sup>200A Incidental overnight expenses.

- (1) Subject to subsection (2) below, sums paid to or on behalf of any person holding an office or employment, to the extent that they are paid wholly and exclusively for the purpose of defraying, or of being used for defraying, any expenses which—
- (a) are incidental to that person’s being away from his usual place of abode during a qualifying absence from home, but

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- (b) would not be deductible under section 193, 194, [F<sup>20</sup>195 or 332 or (in the absence of sections 197AD to 197AF) 198] if incurred out of that person's emoluments,
- shall not be regarded as emoluments of the office or employment for any purpose of Schedule E.
- (2) Subsection (1) above shall not apply in the case of any qualifying absence in relation to which the authorised maximum is exceeded.
- (3) For the purposes of this section a qualifying absence from home, in relation to a person holding an office or employment, is any continuous period throughout which that person is obliged to stay away from his usual place of abode and during which he—
- (a) has at least one overnight stay away from that place; but
- (b) does not on any occasion stay overnight at a place other than a place the expenses of travelling to which are <sup>F<sup>21</sup></sup> . . . —
- (i) expenses incurred out of his emoluments and deductible, otherwise than by virtue of section 193(4), 194(2) or 195(6), under any of the provisions mentioned in subsection (1)(b) above, or
- (ii) expenses which would be so deductible if so incurred, [F<sup>22</sup> or
- (iii) expenses the amount of which, having been paid or reimbursed by the person under whom he holds that office or employment, is excluded from his emoluments in pursuance of section 200B, or
- (iv) expenses the amount of which would be so excluded if it were so paid or reimbursed][F<sup>23</sup>, or
- (v) expenses the amount of which, having been paid or reimbursed by the person under whom he holds that office or employment, is excluded from his emoluments in pursuance of section 200E, or
- (vi) expenses the amount of which would be so excluded if it were so paid or reimbursed.]
- (4) In this section “the authorised maximum”, in relation to each qualifying absence from home by any person, means the aggregate amount equal to the sum of the following amounts—
- (a) £5 for every night (if any) during that absence which is a night the whole of which is spent by that person in the United Kingdom; and
- (b) £10 for every night (if any) during that absence which is a night the whole or any part of which is spent by that person outside the United Kingdom.
- (5) For the purposes of this section the authorised maximum is exceeded in relation to a qualifying absence from home by any person if that maximum is exceeded by the amount which, in the absence of subsection (2) above and of the other requirements of this Act that that maximum is not exceeded, would fall by virtue of this section and sections 141(6C), 142(3C) and 155(1B) to be disregarded, in relation to that qualifying absence, in determining the amount of that person's emoluments.
- (6) The Treasury may by order increase either or both of the sums for the time being specified in subsection (4)(a) and (b) above; and such an order shall have effect for determining what emoluments are received by any person on or after the date when the order comes into force.]

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### Textual Amendments

- F19** S. 200A inserted (with effect in accordance with s. 93(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 93\(4\)](#)
- F20** Words in s. 200A(1)(b) substituted (with effect in accordance with s. 57(4) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 12 Pt. 2 para. 7](#)
- F21** Word in s. 200A(3)(b) repealed (with effect in accordance with s. 63(3) of the repealing Act) by [Finance Act 1997 \(c. 16\), ss. 63\(2\), 113, Sch. 18 Pt. 6\(4\)](#), Note
- F22** S. 200A(3)(b)(iii)(iv) and preceding word inserted (with effect in accordance with s. 63(3) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 63\(2\)](#)
- F23** S. 200A(3)(b)(v)(vi) and preceding word inserted (with application in accordance with s. 58(3) of the amending Act) by [Finance Act 2000 \(c. 17\), s. 58\(2\)](#)

### [<sup>F24</sup>200B Work-related training provided by employers.

- (1) This section applies for the purposes of Schedule E where any person (“the employer”) incurs expenditure on providing work-related training for a person (“the employee”) who holds an office or employment under him.
- (2) Subject to section 200C, the emoluments of the employee from the office or employment shall not be taken to include—
  - (a) any amount in respect of that expenditure; or
  - (b) any amount in respect of the benefit of the work-related training provided by means of that expenditure.
- (3) For the purposes of this section the employer shall be taken to incur expenditure on the provision of work-related training in so far only as he incurs expenditure in paying or reimbursing—
  - (a) the cost of providing any such training to the employee; or
  - (b) any related costs.
- (4) In subsection (3) above “related costs”, in relation to any work-related training provided to the employee, means—
  - (a) any costs which are incidental to the employee’s undertaking the training and are incurred wholly and exclusively as a result of his doing so;
  - (b) any expenses incurred in connection with an assessment (whether by examination or otherwise) of what the employee has gained from the training; and
  - (c) the cost of obtaining for the employee any qualification, registration or award to which he has or may become entitled as a result of undertaking the training or of undergoing such an assessment.
- (5) In this section “work-related training” means any training course or other activity which is designed to impart, instill, improve or reinforce any knowledge, skills or personal qualities which—
  - (a) is or, as the case may be, are likely to prove useful to the employee when performing the duties of any relevant employment; or
  - (b) will qualify him, or better qualify him—
    - (i) to undertake any relevant employment; or



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(ii) to participate in any charitable or voluntary activities that are available to be undertaken in association with any relevant employment.

- (6) In this section “relevant employment”, in relation to the employee, means—
- (a) any office or employment which he holds under the employer or which he is to hold under the employer or a person connected with the employer;
  - (b) any office or employment under the employer or such a person to which he has a serious opportunity of being appointed; or
  - (c) any office or employment under the employer or such a person as respects which he can realistically expect to have such an opportunity in due course.

(7) Section 839 (meaning of “connected person”) applies for the purposes of this section.]

#### Textual Amendments

**F24** Ss. 200B-200D inserted (with application in accordance with s. 63(3) of the amending Act) by Finance Act 1997 (c. 16), s. 63(1)

#### [<sup>F24</sup>200C Expenditure excluded from section 200B.

- (1) Section 200B shall not apply in the case of any expenditure to the extent that it is incurred in paying or reimbursing the cost of any facilities or other benefits provided or made available to the employee for one or more of the following purposes, that is to say—
- (a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b);
  - (b) rewarding the employee for the performance of the duties of his office or employment under the employer, or for the manner in which he has performed them;
  - (c) providing the employee with an employment inducement which is unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b).

[<sup>F25</sup>(2) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that, on the assumptions in subsection (2A) below—

- (a) mileage allowance relief would be available in respect of those expenses if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or
- (b) those expenses would be deductible under section 198.

(2A) The assumptions are—

- (a) that the employee undertook the training in question in the performance of the duties of his office or employment under the employer; and
- (b) that the employee incurred the expenses in question out of the emoluments of that office or employment.]

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- (3) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing the cost of providing the employee with, or with the use of, any asset except where—
- (a) the asset is provided or made available for use only in the course of the training;
  - (b) the asset is provided or made available for use in the course of the training and in the performance of the duties of the employee’s office or employment but not for any other use;
  - (c) the asset consists in training materials provided in the course of the training; or
  - (d) the asset consists in something made by the employee in the course of the training or incorporated into something so made.
- (4) Section 200B shall apply in the case of expenditure in connection with anything that is a qualifying course of training for the purposes of section 588 to the extent only that section 588(1) does not have effect.
- (5) Section 200B shall not apply in the case of any expenditure incurred in enabling the employee to meet, or in reimbursing him for, any payment in respect of which there is an entitlement to relief under section 32 of the <sup>M10</sup>Finance Act 1991 (vocational training).
- (6) In subsection (1) above the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of any leisure activity.
- (7) In this section—
- “employment inducement”, in relation to the employee, means an inducement to remain in, or to accept, any office or employment with the employer or a person connected with the employer;
- “subsistence” includes food and drink and temporary living accommodation; and
- “training materials” means stationery, books or other written material, audio or video tapes, compact disks or floppy disks.
- (8) Section 839 (meaning of “connected person”) applies for the purposes of this section.]

#### Textual Amendments

- F24** Ss. 200B-200D inserted (with application in accordance with s. 63(3) of the amending Act) by Finance Act 1997 (c. 16), s. 63(1)
- F25** S. 200C(2)(2A) substituted for s. 200C(2) (with effect in accordance with s. 57(4) of the amending Act) by Finance Act 2001 (c. 9), Sch. 12 Pt. 2 para. 8

#### Marginal Citations

- M10** 1991 c. 31.

### [<sup>F24</sup>200D Other work-related training.

- (1) For the purposes of Schedule E, where—

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- (a) any person (“the employee”) who holds an office or employment under another (“the employer”) is provided by reason of that office or employment with any benefit,
- (b) that benefit consists in any work-related training or is provided in connection with any such training, and
- (c) the amount which (apart from this section and sections 200B and 200C) would be included in respect of that benefit in the emoluments of the employee (“the chargeable amount”) is or includes an amount that does not represent expenditure incurred by the employer,

the questions whether and to what extent those emoluments shall in fact be taken to include an amount in respect of that benefit shall be determined in accordance with those sections as if the benefit had been provided by means of a payment by the employer of an amount equal to the whole of the chargeable amount.

- (2) In this section “work-related training” has the same meaning as in section 200B.]

#### Textual Amendments

**F24** Ss. 200B-200D inserted (with application in accordance with s. 63(3) of the amending Act) by Finance Act 1997 (c. 16), s. 63(1)

#### [<sup>F26</sup>200E Education and training funded by employers.

- (1) This section applies for the purposes of Schedule E where any person (in this section, and sections 200F and 200G, called “the employer”) incurs expenditure—
  - (a) by making a payment to a person (“the provider”) in respect of the costs of any qualifying education or training provided by the provider to a fundable employee of the employer (in this section, and sections 200F and 200G, called “the employee”), or
  - (b) in paying or reimbursing any related costs.
- (2) Subject to sections 200F to 200H, the emoluments of the employee from the office or employment shall not be taken to include—
  - (a) any amount in respect of that expenditure, or
  - (b) any amount in respect of the benefit of the education or training provided by means of that expenditure.
- (3) In subsection (1) above “related costs”, in relation to any qualifying education or training provided to the employee, means—
  - (a) any costs that are incidental to the employee’s undertaking the education or training and are incurred wholly and exclusively as a result of his doing so;
  - (b) any expenses incurred in connection with an assessment (whether by examination or otherwise) of what the employee has gained from the education or training; and
  - (c) the cost of obtaining for the employee any qualification, registration or award to which he has or may become entitled as a result of undertaking the education or training or of undergoing such an assessment.
- (4) In this section “qualifying education or training” means education or training of a kind that qualifies for grants whose payment is authorised by—
  - (a) regulations under section 108 or 109 of the <sup>M11</sup>Learning and Skills Act 2000, or

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- (b) regulations under section 1 of the <sup>M12</sup>Education and Training (Scotland) Act 2000.
- (5) For the purposes of this section, a person is a fundable employee of the employer if—
  - (a) he holds, or has at any time held, an office or employment under the employer, and
  - (b) he holds an account that qualifies under section 104 of the Learning and Skills Act 2000 or he is a party to qualifying arrangements.
- (6) In subsection (5) above “qualifying arrangements” means arrangements which qualify under—
  - (a) section 105 or 106 of the Learning and Skills Act 2000, or
  - (b) section 2 of the Education and Training (Scotland) Act 2000.]

#### Textual Amendments

**F26** Ss. 200E-200H, 200J inserted (with application in accordance with s. 58(3) of the amending Act) by Finance Act 2000 (c. 17), s. 58(1)

#### Marginal Citations

**M11** 2000 c. 21.

**M12** 2000 asp 8.

#### [<sup>F26</sup>200F Section 200E: exclusion of expenditure not directly related to training.

- (1) Section 200E shall not apply in the case of any expenditure to the extent that it is incurred in paying or reimbursing the cost of any facilities or other benefits provided or made available to the employee for either or both of the following purposes, that is to say—
  - (a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes;
  - (b) rewarding the employee for the performance of the duties of his office or employment under the employer, or for the manner in which he has performed them.
- [<sup>F27</sup>(2) Section 200E shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that, on the assumptions in subsection (2A) below—
  - (a) mileage allowance relief would be available in respect of those expenses if no mileage allowance payments (within the meaning of section 197AD(2)) had been made; or
  - (b) those expenses would be deductible under section 198.
- (2A) The assumptions are—
  - (a) that the employee undertook the education or training in question in the performance of the duties of—
    - (i) his office or employment under the employer, or
    - (ii) where the employee no longer holds an office or employment under the employer, the last office or employment that he did hold under the employer; and

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- (b) that the employee incurred the expenses in question out of the emoluments of that office or employment.]
- (3) Section 200E shall not apply in the case of any expenditure incurred in paying or reimbursing the cost of providing the employee with, or with the use of, any asset except where—
- (a) the asset is provided or made available for use only in the course of the education or training;
  - (b) the asset is provided or made available for use in the course of the education or training and in the performance of the duties of the employee’s office or employment but not to any significant extent for any other use;
  - (c) the asset consists in training materials provided in the course of the education or training; or
  - (d) the asset consists in something made by the employee in the course of the education or training or incorporated into something so made.
- (4) In subsection (1) above the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of any leisure activity.
- (5) In this section—
- “subsistence” includes food and drink and temporary living accommodation; and
  - “training materials” means stationery, books or other written material, audio or video tapes, compact disks or floppy disks.]

#### Textual Amendments

- F26** Ss. 200E-200H, 200J inserted (with application in accordance with s. 58(3) of the amending Act) by Finance Act 2000 (c. 17), s. 58(1)
- F27** S. 200F(2)(2A) substituted for s. 200F(2) (with effect in accordance with s. 57(4) of the amending Act) by Finance Act 2001 (c. 9), Sch. 12 Pt. 2 para. 9

#### [<sup>F26</sup>200G] **Section 200E: exclusion of expenditure if contributions not generally available to staff.**

- (1) Section 200E shall not apply to any expenditure incurred in respect of—
- (a) the costs of any education or training provided to the employee, or
  - (b) any related costs,
- unless the expenditure is incurred in giving effect to fair-opportunity arrangements that were in place at the time when the employer agreed to incur the expenditure.
- In this subsection “related costs”, in relation to any education or training provided to the employee, has the meaning given by section 200E(3).
- (2) For the purposes of subsection (1) above “fair-opportunity arrangements” are in place at any time if at that time arrangements are in place that provide—
- (a) for the making of contributions by the employer to costs arising from qualifying education or training being undertaken by persons who hold, or have held, an office or employment under the employer, and

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- (b) for such contributions to be generally available, on similar terms, to the persons who at that time hold an office or employment under the employer.

In this subsection “qualifying education or training” has the same meaning as in section 200E.

- (3) The Treasury may by regulations make provision specifying the persons or other entities under whom Crown servants are to be treated for the purposes of this section as holding office or employment; and such regulations may—

- (a) deem a description of Crown servants (or two or more such descriptions taken together) to be an entity for the purposes of the regulations;
- (b) make different provision for different descriptions of Crown servants.

In this subsection “Crown servant” means a person holding an office or employment under the Crown.]

**Textual Amendments**

**F26** Ss. 200E-200H, 200J inserted (with application in accordance with s. 58(3) of the amending Act) by Finance Act 2000 (c. 17), s. 58(1)

**[<sup>F26</sup>200H Section 200E: exclusion of expenditure otherwise relieved.**

Section 200E does not apply to expenditure to the extent that—

- (a) section 200B (expenditure on work-related training) applies to it, or
- (b) section 588(1) (expenditure on retraining courses) has effect in respect of it.]

**Textual Amendments**

**F26** Ss. 200E-200H, 200J inserted (with application in accordance with s. 58(3) of the amending Act) by Finance Act 2000 (c. 17), s. 58(1)

**[<sup>F26</sup>200J Education or training funded by third parties.**

- (1) This section applies where—

- (a) any person (“the employee”) who holds, or has at any time held, an office or employment under another (“the employer”) is provided by reason of that office or employment with any benefit,
- (b) that benefit consists in any qualifying education or training or is provided in connection with any such education or training, and
- (c) the amount which (apart from this section and sections 200E to 200H) would be included in respect of that benefit in the emoluments of the employee (“the chargeable amount”) is or includes an amount that does not represent expenditure incurred by the employer.

- (2) For the purposes of Schedule E, the questions whether and to what extent those emoluments shall be taken to include an amount in respect of that benefit shall be determined in accordance with sections 200E to 200H as if the benefit had been provided by means of a payment by the employer of an amount equal to the whole of the chargeable amount.

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- (3) In this section “qualifying education or training” has the same meaning as in section 200E.]

#### Textual Amendments

**F26** Ss. 200E-200H, 200J inserted (with application in accordance with s. 58(3) of the amending Act) by Finance Act 2000 (c. 17), s. 58(1)

### 201 Fees and subscriptions to professional bodies, learned societies etc.

<sup>M13</sup>(1) Subject to the provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say—

- (a) any fee or contribution mentioned in subsection (2) below, and
- (b) any annual subscription paid to a body of persons approved for the purposes of this section by the Board.

(2) The fees and contributions referred to in subsection (1)(a) above are—

- (a) the fee payable in respect of the retention of a name in the Register of Architects;
- (b) the fee payable in respect of the retention of a name in the dentists register or in a roll or record kept for a class of ancillary dental workers;
- (c) the fee payable in respect of the retention of a name in either of the registers of ophthalmic opticians or in the register of dispensing opticians;
- (d) the annual fee payable by a registered patent agent;
- (e) the fee payable in respect of the retention of a name in the register of pharmaceutical chemists;
- (f) the fee and contribution to the Compensation Fund or Guarantee Fund payable on the issue of a solicitor’s practising certificate; and
- (g) the annual fee payable by a registered veterinary surgeon or by a person registered in the Supplementary Veterinary Register.

(3) The Board may, on the application of the body, approve for the purposes of this section any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects—

- (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions);
- (b) the maintenance or improvement of standards of conduct and competence among the members of any profession;
- (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.

(4) If the activities of a body approved for the purposes of this section are to a significant extent directed to objects other than those mentioned in subsection (3) above, the Board may determine that such specified part only of any annual subscription paid to the body may be deducted under this section as corresponds to the extent to which its activities are directed to objects mentioned in that subsection; and in doing so the Board shall have regard to all relevant circumstances and, in particular, to the

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proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.

- (5) A fee, contribution or subscription shall not be deducted under this section from the emoluments of any office or employment unless—
- (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) or certificate which is a condition, or one of alternative conditions, of the performance of the duties of the office or employment or, as the case may be, the contribution is payable on the issue of such a certificate; or
  - (b) the subscription is paid to a body the activities of which, so far as they are directed to the objects mentioned in subsection (3) above, are relevant to the office or employment, that is to say, the performance of the duties of the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.
- (6) Any approval given and any determination made under this section may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this section in pursuance of an application made before the end of any year of assessment, a deduction may be made under this section in respect of a subscription paid to the body in that year, whether the approval is given before or after the end of the year.
- (7) Any body aggrieved by the failure of the Board to approve the body for the purposes of this section, or by their withdrawal of the approval, or by any determination made by them under this section or the variation of or refusal to withdraw or vary such a determination may, by notice given to the Board within 30 days from the date on which the body is notified of their decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal.

#### **Marginal Citations**

**M13** Source—1970 s.192

#### **[<sup>F28</sup>201A] Employee liabilities and indemnity insurance.**

- (1) Subject to the provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say—
- (a) any amount paid in or towards the discharge of a qualifying liability of the person who is the holder of the office or employment;
  - (b) costs or expenses incurred in connection with any claim that that person is subject to such a liability or with any proceedings relating to or arising out of such a claim; and
  - (c) so much (if any) of any premium paid under a qualifying contract of insurance as relates to the indemnification of that person against a qualifying liability or to the payment of any such costs or expenses.
- (2) For the purposes of this section a liability is a qualifying liability, in relation to any office or employment, if it is imposed either—



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- (a) in respect of any acts or omissions of a person in his capacity as the holder of that office or employment or in any other capacity in which he acts in the performance of the duties of that office or employment; or
  - (b) in connection with any proceedings relating to or arising out of a claim that a person is subject to a liability imposed in respect of any such acts or omissions.
- (3) For the purposes of this section a qualifying contract of insurance is a contract of insurance which—
- (a) so far as the risks insured against are concerned, relates exclusively to one or more of the matters mentioned in subsection (4) below;
  - (b) is not connected with any other contract;
  - (c) does not contain provision entitling the insured, in addition to cover for the risks insured against and any right to renew the policy, to receive any payment or other benefit the entitlement to which is something to which a significant part of the premium under the contract is reasonably attributable; and
  - (d) is a contract the period of insurance under which does not exceed two years (except by virtue of one or more renewals each for a period of two years or less) and is not a contract which the insured is required to renew for any period.
- (4) The matters referred to in subsection (3)(a) above in relation to any contract of insurance are the following, that is to say—
- (a) the indemnification of any person holding any office or employment against any qualifying liability;
  - (b) the indemnification of any person against any vicarious liability in respect of acts or omissions giving rise, in the case of another, to such a qualifying liability;
  - (c) the payment of some or all of the costs or expenses incurred by or on behalf of that or any other person in connection with any claim that a person is subject to a liability to which the insurance relates or with any proceedings relating to or arising out of such a claim; and
  - (d) the indemnification of any person against any loss from the payment by him (whether or not in discharge of any liability) to a person holding an office or employment under him of any amount in respect of a qualifying liability or of any such costs or expenses.
- (5) For the purposes of this section a contract of insurance is connected with another contract at any time at or after the time when they have both been entered into if—
- (a) either of them was entered into by reference to the other or with a view to enabling the other to be entered into on particular terms or to facilitating the other being entered into on particular terms; and
  - (b) the terms on which either of them was entered into would have been significantly different if it had not been entered into in anticipation of the other being entered into or if the other had not also been entered into.
- (6) Two or more contracts of insurance shall not be prevented by virtue of paragraph (b) of subsection (3) above from being qualifying contracts if—
- (a) they each satisfy the requirements of paragraphs (a), (c) and (d) of that subsection; and
  - (b) the only respects in which there is a significant difference between the terms on which any of those contracts is entered into and what would have been those terms if the other contract or contracts had not been entered into consist in such reductions of premium as are reasonably attributable to—

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- (i) the fact that, where different contracts have been entered into as part of a single transaction, the premium under each of the contracts has been fixed by reference to the appropriate proportion of what would have been the premium under a single contract relating to all the risks covered by the different contracts; or
  - (ii) the fact that the contract in question contains a right to renew or is entered into by way of renewal or in pursuance of such a right.
- (7) For the purpose of determining the different parts of any premium under any contract of insurance which are to be treated for the purposes of this section as paid in respect of the different risks, different persons and different offices and employments to which the contract relates, such apportionment of that premium shall be made as may be reasonable.
- (8) Where it would be unlawful for a person under whom any other person holds any office or employment to enter into a contract of insurance in respect of liabilities of any description or in respect of costs or expenses of any description, no deduction may be made under this section in respect of—
- (a) the discharge of any liability of that other person which is a liability of that description; or
  - (b) any costs or expenses incurred by or on behalf of that other person which are costs or expenses of that description.
- (9) References in this section to a premium, in relation to a contract of insurance, are references to any amount payable under the contract to the insurer.]

#### Textual Amendments

**F28** S. 201AA inserted (with effect in accordance with s. 91(3) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 91\(1\)](#)

#### [<sup>F29</sup>201A] Expense of entertainers.

- (1) Where emoluments of an employment to which this section applies fall to be charged to tax for a year of assessment for which this section applies, there may be deducted from the emoluments of the employment to be charged to tax for the year—
- (a) fees falling within subsection (2) [<sup>F30</sup>or (2A)] below, and
  - (b) any additional amount paid by the employee in respect of value added tax charged by reference to those fees.
- (2) Fees fall within this subsection if—
- (a) they are paid by the employee to another person,
  - (b) they are paid under a contract made between the employee and the other person, who agrees under the contract to act as an agent of the employee in connection with the employment,
  - (c) at each time any of the fees are paid the other person carries on an employment agency with a view to profit <sup>F31</sup>. . . ,
  - (d) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and
  - (e) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned.

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[ Fees fall within this subsection if—

- <sup>F32</sup>(2A) (a) they are paid by the employee in pursuance of an arrangement under which a bona fide co-operative society agrees, or the members of such a society agree, to act as agent of the employee in connection with the employment,
- (b) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and
- (c) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned.]

(3) For the purposes of subsection (2) above—

- (a) “employment agency” means an employment agency within the meaning given by section 13(2) of the Employment Agencies Act 1973, <sup>F33</sup> . . .
- (b) <sup>F33</sup> . . . . .

[ Subsection (3) of section 1 of the Industrial and Provident Societies Act 1965 (co-

<sup>F34</sup>(3A) operative society does not include profit-making society) shall apply for the purposes of subsection (2A)(a) above as it applies for the purposes of that section.]

(4) The amount which may be deducted by virtue of this section shall not exceed 17.5 per cent. of the emoluments of the employment falling to be charged to tax for the year concerned.

[ Subject to subsection (4) above, a deduction by virtue of this section as regards a

<sup>F35</sup>(4A) particular employment and a particular year of assessment may be based on fees falling within subsection (2) above or fees falling within subsection (2A) above, or both.]

(5) This section applies to employment as an actor, singer, musician dancer or theatrical artist.

(6) This section applies for the year 1990-91 and subsequent years of assessment.]

#### Textual Amendments

- F29** S. 201A inserted by [Finance Act 1990 \(c. 29\), s. 77](#)
- F30** Words in s. 201A(1)(a) inserted (for the year 1990-91 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 69\(2\)\(6\)](#)
- F31** Words in s. 201A(2)(c) repealed (3.1.1995) by [Deregulation and Contracting Out Act 1994 \(c. 40\), ss. 81, 82\(4\), Sch. 17; S.I. 1994/3188, arts 2, 3\(s\)\(x\)](#)
- F32** S. 201A(2A) inserted (for the year 1990-91 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 69\(3\)\(6\)](#)
- F33** S. 201A(3)(b) and preceding word repealed (3.1.1995) by [Deregulation and Contracting Out Act 1994 \(c. 40\), ss. 81, 82\(4\), Sch. 17; S.I. 1994/3188, arts 2, 3\(s\)\(x\)](#)
- F34** S. 201A(3A) inserted (for the year 1990-91 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 69\(4\)\(6\)](#)
- F35** S. 201A(4A) inserted (for the year 1990-91 and subsequent years of assessment) by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 69\(5\)\(6\)](#)

## 202 Donations to charity: payroll deduction scheme.

- (1) <sup>M14</sup>This section applies where an individual (“the employee”) is entitled to receive payments from which income tax falls to be deducted by virtue of section 203 and

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- regulations under that section, and the person liable to make the payments (“the employer”) withholds sums from them.
- (2) If the conditions mentioned in subsections (3) to (7) below are fulfilled the sums shall, in assessing tax under Schedule E, be allowed to be deducted as expenses incurred in the year of assessment in which they are withheld.
- (3) The sums must be withheld in accordance with a scheme which is (or is of a kind) approved by the Board at the time they are withheld and which either contains provisions falling within subsection (4)(a) below, or contains provisions falling within subsection (4)(a) below and provisions falling within subsection (4)(b) below.
- (4) The provisions are that—
- (a) the employer is to pay sums withheld to a person (“the agent”) who is approved by the Board at the time they are withheld, and the agent is to pay them to a charity or charities;
  - (b) the employer is to pay sums withheld directly to a charity which (or charities each of which) is at the time the sums are withheld approved by the Board as an agent for the purpose of paying sums to other charities.
- (5) The sums must be withheld in accordance with a request by the employee that they be paid to a charity or charities in accordance with a scheme approved (or of a kind approved) by the Board.
- (6) The sums must constitute gifts by the employee to the charity or charities concerned,<sup>F36</sup> . . . and must fulfil any conditions set out in the terms of the scheme concerned.
- (7)<sup>F37</sup> . . . . .
- (8)<sup>M15</sup> The circumstances in which the Board may grant or withdraw approval of schemes (or kinds of schemes) or of agents shall be such as are prescribed by the Treasury by regulations; and the circumstances so prescribed (whether relating to the terms of schemes or the qualifications of agents or otherwise) shall be such as the Treasury think fit.
- (9) The Treasury may by regulations make provision—
- (a) that a participating employer or agent shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board’s inspection documents of a prescribed kind or records of a prescribed kind;
  - (b) that a participating employer or agent shall in prescribed circumstances furnish to the Board information of a prescribed kind;
  - (c) for, and with respect to, appeals to the Special Commissioners against the Board’s refusal to grant, or their withdrawal of, approval of any scheme (or any kind of scheme) or agent;
  - (d) generally for giving effect to subsections (1) to (7) above.
- In this subsection “prescribed” means prescribed by the regulations.
- (10) For the purposes of subsection (9) above a person is a participating employer or agent if he is an employer or agent who participates, or has at any time participated, in a scheme under this section.
- (11)<sup>M16</sup> In this section “charity” has the same meaning as in section 506 [<sup>F38</sup>and includes each of the bodies mentioned in section 507].

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#### Textual Amendments

- F36** Words in s. 202(6) repealed (with effect in accordance with s. 38(7) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), ss. 38(5)(a), 156, [Sch. 40 Pt. 2\(1\)](#), Note 1
- F37** S. 202(7) repealed (with effect in accordance with s. 38(7) of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), ss. 38(5)(b), 156, [Sch. 40 Pt. 2\(1\)](#), Note 1
- F38** Words in s. 202(11) inserted (with effect in accordance with s. 38(7) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), s. 38(5)(c)

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

- C1** See 1990 s.25—*donations to charity by individuals in respect of gifts made on or after 1 October 1990.*
- C2** For regulations see Part III Vol.5 (“Charitable deductions: approved schemes”).

#### Marginal Citations

- M14** Source—1986 s.27(1)-(7); 1987 s.32
- M15** Source—1986 s.28(1)-(5)
- M16** Source—1986 s.27(8)

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