

Status: Point in time view as at 01/01/1994. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Income and Corporation Taxes Act 1988, SCHEDULE 9 is up to date with all changes known to be in force on or before 15 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)

SCHEDULES

SCHEDULE 9

Sections 185, 186, 187.

APPROVED SHARE OPTION SCHEMES AND PROFIT SHARING SCHEMES

Modifications etc. (not altering text)

- C1** Sch. 9 excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), **ss. 238(2)(c)(4)**, 289 (with ss. 60, 101(1), 171, 201(3))
- C2** Sch. 9 modified (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), **s. 115**
- C3** Sch. 9 modified (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), **s. 116(3)**
- C4** Sch. 9 modified (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), **s. 49(1)(2)**
- C5** Sch. 9 continued for specified purposes (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **s. 418(3)** (with Sch. 7)

PART I

GENERAL

- [^{F1}1] (1) ^{M1}Subject to the provisions of this Schedule, on the application of a body corporate (“the grantor”) which has established a share option scheme or a profit sharing scheme, the Board shall approve the scheme if they are satisfied that it fulfils such requirements of Part II and this Part as apply in relation to the scheme in question, and the requirements of Part III, IV or V of this Schedule; and in this Schedule—
- “the relevant requirements” means, in relation to any scheme, the requirements of this Schedule by reference to which the scheme is approved; and
- “savings-related share option scheme” means a scheme in relation to which the relevant requirements include the requirements of Part III of this Schedule.
- (2) ^{M2}An application under sub-paragraph (1) above shall be made in writing and contain such particulars and be supported by such evidence as the Board may require.
- (3) ^{M3}Where the grantor has control of another company or companies, the scheme may be expressed to extend to all or any of the companies of which it has control and in this Schedule a scheme which is expressed so to extend is referred to as a “group scheme”.
- (4) ^{M4}In relation to a group scheme the expression “participating company” means the grantor or any other company to which for the time being the scheme is expressed to extend.

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Textual Amendments

- F1** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1)**, Sch. 6 para. 112(1), **Sch 8 Pt. 1** (with Sch. 7)

Marginal Citations

- M1** Source—1978 Sch.9 1(1)(a); 1980 Sch.10 1(1)(a); 1984 Sch.10 1(1)
M2 Source—1978 Sch.9 1(5); 1980 Sch.10 1(2); 1984 Sch.10 1(2)
M3 Source—1978 Sch.9 1(2); 1980 Sch.10 1(3); 1984 Sch.10 1(3)
M4 Source—1978 Sch.9 1(2); 1980 Sch.10 1(3); 1984 Sch.10 1(4)

- 2 (1) ^{M5}The Board shall not approve a scheme under this Schedule if it appears to them that it contains features which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of rights to acquire shares or, in the case of a profit sharing scheme, in the nature of interests in shares.
- (2) ^{M6}A profit sharing scheme shall not be approved under paragraph 1 above unless the Board are satisfied that, whether under the terms of the scheme or otherwise, every participant in the scheme is bound in contract with the grantor—
- (a) to permit his shares to remain in the hands of the trustees throughout the period of retention; and
 - (b) not to assign, charge or otherwise dispose of his beneficial interest in his shares during that period; and
 - (c) if he directs the trustees to transfer the ownership of his shares to him at any time before the release date, to pay to the trustees before the transfer takes place a sum equal to income tax at the basic rate on the appropriate percentage of the locked-in value of the shares at the time of the direction; and
 - (d) not to direct the trustees to dispose of his shares at any time before the release date in any other way except by sale for the best consideration in money that can reasonably be obtained at the time of the sale or, in the case of redeemable shares in a workers' cooperative, by redemption.
- (3) ^{M7}The Board must be satisfied in the case of a savings-related share option scheme or a profit sharing scheme—
- (a) that there are no features of the scheme (other than any which are included to satisfy requirements of this Schedule) which have or would have the effect of discouraging any description of employees or former employees who fulfil the conditions in paragraph 26(1) or, as the case may be, 36(1) below from actually participating in the scheme; and
 - (b) where the grantor is a member of a group of companies, that the scheme does not and would not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of the higher or highest levels of remuneration.
- (4) For the purposes of sub-paragraph (3) above “a group of companies” means a company and any other companies of which it has control.

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Modifications etc. (not altering text)

- C6** Sch. 9 para. 2(2) excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 238(1)(4), 289 (with ss. 60, 101(1), 171, 201(3))

Marginal Citations

- M5** Source—1978 Sch.9 1(1)(b); 1980 Sch.10 1(1), (b); 1984 Sch.10 1(1); 1987 Sch.15 13
M6 Source—1978 s.54(1); 1986 s.24(3)(a)
M7 Source—1978 Sch.9 2(3), (4); 1980 Sch.10 1(1)(aa), (ab), (1A); 1983 s.25(5); 1984 s.39(2)

- 3 (1) If, at any time after the Board have approved a share option scheme, any of the relevant requirements ceases to be satisfied or the grantor fails to provide information requested by the Board under paragraph 6 below, the Board may withdraw the approval with effect from that time or such later time as the Board may specify; but where rights obtained under a savings-related share option scheme before the withdrawal of approval from the scheme under this paragraph are exercised after the withdrawal, section 185(3) shall apply in respect of the exercise as if the scheme were still approved.
- (2) If at any time after the Board have approved a profit sharing scheme—
- (a) a participant is in breach of any of his obligations under paragraph 2(2)(a), (c) and (d) above; or
 - (b) there is, with respect to the operation of the scheme, any contravention of any of the relevant requirements, Schedule 10, the scheme itself or the terms of the trust referred to in paragraph 30(1)(c) below; or
 - (c) any shares of a class of which shares have been appropriated to the participants receive different treatment in any respect from the other shares of that class, in particular, different treatment in respect of—
 - (i) the dividend payable;
 - (ii) repayment;
 - (iii) the restrictions attaching to the shares; or
 - (iv) any offer of substituted or additional shares, securities or rights of any description in respect of the shares; or
 - (d) the Board cease to be satisfied that the scheme complies with the requirements of paragraph 2(3) above or paragraph 36 below; or
 - (e) the trustees, the grantor or, in the case of a group scheme, a company which is or has been a participating company fail or fails to furnish any information which they are or it is required to furnish under paragraph 6 below,
- the Board may, subject to sub-paragraph (3) below, withdraw the approval with effect from that time or from such later time as the Board may specify.
- (3) ^{M8}It shall not be a ground for withdrawal of approval of a profit sharing scheme that shares which have been newly issued receive, in respect of dividends payable with respect to a period beginning before the date on which the shares were issued, treatment which is less favourable than that accorded to shares issued before that date.

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Marginal Citations

M8 Source—1978 Sch.9 3(3)

- 4 ^{M9}If an alteration is made in the scheme at any time after the Board have approved the scheme, the approval shall not have effect after the date of the alteration unless the Board have approved the alteration.

Textual Amendments

F1 Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 112\(1\)](#), [Sch 8 Pt. 1](#) (with [Sch. 7](#))

Modifications etc. (not altering text)

C7 [Sch. 9 para. 4](#) modified (with effect in accordance with [Sch. 16 para. 1](#) of the modifying Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 16 para. 4](#)

Marginal Citations

M9 Source—1978 Sch.9 3(2); 1980 Sch.10 3(2); 1984 Sch.10 2(2)

- 5 ^{M10}If aggrieved—
- (a) in any case, by the failure of the Board to approve the scheme or to approve an alteration in the scheme or by the withdrawal of approval; or
 - (b) in the case of a savings-related share option scheme, by the failure of the Board to decide that a condition subject to which the approval has been given is satisfied; or
 - (c) in the case of a profit sharing scheme, by the failure of the Board to approve an alteration in the terms of the trust referred to in paragraph 30(1)(c) below;
- the grantor may, by notice given to the Board within 30 days from the date on which it is notified of the Board's decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall hear and determine the matter in like manner as an appeal.

Textual Amendments

F1 Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 112\(1\)](#), [Sch 8 Pt. 1](#) (with [Sch. 7](#))

Modifications etc. (not altering text)

C8 [Sch. 9 para. 5](#) modified (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 158](#)

Marginal Citations

M10 Source—1978 Sch.9 4; 1980 Sch.10 4; 1984 Sch.10 3

- 6 ^{M11}The Board may by notice require any person to furnish them, within such time as the Board may direct (not being less than 30 days), with such information as

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the Board think necessary for the performance of their functions under the relevant provisions and as the person to whom the notice is addressed has or can reasonably obtain, including in particular information—

- (a) to enable the Board to determine—
 - (i) whether to approve a scheme or withdraw an approval already given; or
 - (ii) the liability to tax, including capital gains tax, of any person who has participated in a scheme; and
- (b) in relation to the administration of a scheme and any alteration of the terms of a scheme.]

Textual Amendments

- F1** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 112(1), [Sch 8 Pt. 1](#) (with Sch. 7)

Marginal Citations

- M11** Source—1978 s.53(7); 1980 Sch.10 25; 1984 Sch.10 14

PART II

REQUIREMENTS GENERALLY APPLICABLE

[^{F27} The provisions of this Part apply in relation to all schemes unless otherwise stated.

Textual Amendments

- F2** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 112(1), [Sch 8 Pt. 1](#) (with Sch. 7)

8 ^{M12}The scheme must not provide for any person to be eligible to participate in it, that is to say, to obtain and exercise rights under it, or in the case of a profit sharing scheme to have shares appropriated to him, at any time when he has, or has within the preceding 12 months had, a material interest in a close company which is—

- (a) a company shares in which, in the case of a profit sharing scheme, are to be appropriated or, in the case of a share option scheme, may be acquired pursuant to the exercise of rights obtained under the scheme; or
- (b) a company which has control of such a company or is a member of a consortium which owns such a company.

In determining whether a company is a close company for the purposes of this paragraph, sections 414(1)(a) and 415 shall be disregarded.

Textual Amendments

- F2** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 112(1), [Sch 8 Pt. 1](#) (with Sch. 7)

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Marginal Citations

M12 Source—1978 Sch.9 11(1), (2); 1980 Sch.10 23; 1984 Sch.10 4(1)(b), (3)

- ^{F3}8A (1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.
- (2) The age specified—
- (a) must be the same for men and women, and
 - (b) must be not less than 60 and not more than 75.]

Textual Amendments

- F2** Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 112(1), [Sch 8 Pt. 1](#) (with Sch. 7)
- F3** Sch. 9 Pt. II para. 8A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. [38\(5\)\(6\)](#)

- 9 (1) ^{M13}A share option scheme must provide for directors and employees to obtain rights to acquire shares (“scheme shares”) which satisfy the requirements of paragraphs 10 to 14 below.
- (2) In the case of a profit sharing scheme, the shares to be acquired by the trustees as mentioned in paragraph 30 below (“scheme shares”) must satisfy the requirements of paragraphs 10 to 12 and 14 below.

Marginal Citations

M13 Source—1978 Sch.9 1(1), (3); 1980 Sch.10 5(a); 1984 Sch.10

- 10 ^{M14}Scheme shares must form part of the ordinary share capital of—
- (a) the grantor; or
 - (b) a company which has control of the grantor; or
 - (c) a company which either is, or has control of, a company which—
 - (i) is a member of a consortium owning either the grantor or a company having control of the grantor; ^{F4} . . .
 - ^{F4}(ii)

Textual Amendments

F4 Sch. 9 para. 10(c)(ii) and preceding word repealed by [Finance Act 1989 \(c. 26\)](#), s. 64, [Sch. 17 Pt. 4](#)

Marginal Citations

M14 Source—1978 Sch.9 5; 1980 Sch.10 15; 1984 Sch.10 7

- 11 ^{M15}Scheme shares must be—
- ^{M16}(a) shares of a class quoted on a recognised stock exchange; or

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- (b) shares in a company which is not under the control of another company; or
- ^{M16}(c) shares in a company which is under the control of a company (other than a company which is, or would if resident in the United Kingdom be, a close company), whose shares are quoted on a recognised stock exchange.

Marginal Citations

M15 Source—1978 Sch.9 6; 1980, s.46(10), Sch.10 16; 1984 Sch.10 8

M16 See s.841 *ante* for definition.

VALID FROM 21/03/2000

- [^{F5}11A(1) In the case of a profit sharing scheme, scheme shares must not be shares—
- (a) in an employer company, or
 - (b) in a company that—
 - (i) has control of an employer company, and
 - (ii) is under the control of a person or persons within sub-paragraph (2)(b)(i) below in relation to an employer company.
- (2) For the purposes of this paragraph a company is “an employer company” if—
- (a) the business carried on by it consists substantially in the provision of the services of the persons employed by it, and
 - (b) the majority of those services are provided to—
 - (i) a person who has, or two or more persons who together have, control of the company, or
 - (ii) a company associated with the company.
- (3) For the purposes of sub-paragraph (2)(b)(ii) above a company shall be treated as associated with another company if both companies are under the control of the same person or persons.
- (4) For the purposes of sub-paragraphs (1) to (3) above—
- (a) references to a person include a partnership, and
 - (b) where a partner, alone or together with others, has control of a company, the partnership shall be treated as having like control of that company.
- (5) For the purposes of this paragraph the question whether a person controls a company shall be determined in accordance with section 416(2) to (6).]

Textual Amendments

F5 Sch. 9 para. 11A inserted (21.3.2000) by Finance Act 2000 (c. 17), s. 52(3)(5) (with s. 52(6))

- 12 (1) ^{M17}Scheme shares must be—
- (a) fully paid up;
 - (b) not redeemable; and
 - (c) not subject to any restrictions other than restrictions which attach to all shares of the same class or a restriction authorised by sub-paragraph (2) below.

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Sub-paragraph (b) above does not apply, in the case of a profit sharing scheme, in relation to shares in a workers' cooperative.

- (2) Except as provided below, the shares may be subject to a restriction imposed by the company's articles of association—
 - (a) requiring all shares held by directors or employees of the company or of any other company of which it has control to be disposed of on ceasing to be so held; and
 - (b) requiring all shares acquired, in pursuance of rights or interests obtained by such directors or employees, by persons who are not (or have ceased to be) such directors or employees to be disposed of when they are acquired.
- (3) A restriction is not authorised by sub-paragraph (2) above unless—
 - (a) any disposal required by the restriction will be by way of sale for a consideration in money on terms specified in the articles of association; and
 - (b) the articles also contain general provisions by virtue of which any person disposing of shares of the same class (whether or not held or acquired as mentioned in sub-paragraph (2) above) may be required to sell them on terms which are the same as those mentioned in paragraph (a) above.
- (4) In the case of a profit sharing scheme, except in relation to redeemable shares in a workers' cooperative, nothing in sub-paragraph (2) above authorises a restriction which would require a person, before the release date, to dispose of his beneficial interest in shares the ownership of which has not been transferred to him.

Marginal Citations

M17 Source—1978 Sch.9 7; 1980 Sch.10 17; 1984 Sch.10 9; 1986 s.22, 24(2)

- 13 (1) ^{M18}In determining, in the case of a share option scheme, for the purposes of paragraph 12(1)(c) above whether scheme shares which are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or of any interest in them or of the proceeds of their sale or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantage to him or to a person connected with him.
- (2) Sub-paragraph (1) does not apply to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Rules set out in the Model Code for Securities Transactions by Directors of Listed Companies issued by the Stock Exchange in November 1984.
- [^{F6}(3) In the case of schemes other than savings-related share option schemes, sub-paragraph (1) above does not apply in relation to any terms of a loan making provision about how it is to be repaid or the security to be given for it.]

Textual Amendments

F6 Sch. 9 para. 13(3) added (retrospectively) by [Finance Act 1988 \(c. 39\), s. 69\(1\)](#)

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Marginal Citations

M18 Source—1980 Sch.10 18; 1982 s.41; 1984 Sch.10 10; 1986 s.23(4)

- 14 (1) ^{M19}Except where scheme shares are shares in a company the ordinary share capital of which consists of shares of one class only, the majority of the issued shares of the same class either must be employee-control shares or must be held by persons other than—
- (a) persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the grantor or any other company and not in pursuance of an offer to the public;
 - (b) trustees holding shares on behalf of persons who acquired their beneficial interests in the shares as mentioned in sub-paragraph (a) above; and
 - (c) in a case where the shares fall within sub-paragraph (c), but not within sub-paragraph (a), of paragraph 11 above, companies which have control of the company whose shares are in question or of which that company is an associated company.
- (2) In its application to a profit sharing scheme, sub-paragraph (1) above shall have effect with the addition after the words “ordinary share capital of which” of the words “ at the time of the acquisition of the shares by the trustees ”.
- (3) For the purposes of this paragraph, shares in a company are employee-control shares if—
- (a) the persons holding the shares are, by virtue of their holding, together able to control the company; and
 - (b) those persons are or have been employees or directors of the company or of another company which is under the control of the company.

Marginal Citations

M19 Source—1978 Sch.9 8; 1980 s.46(11), Sch.10 19; 1984 Sch.10 11; 1986 s.23(3)

- 15 (1) ^{M20}Except in the case of a profit sharing scheme, the scheme may provide that if any company (“the acquiring company”)—
- (a) obtains control of a company whose shares are scheme shares as a result of making a general offer—
 - (i) to acquire the whole of the issued ordinary share capital of the company which is made on a condition such that if it is satisfied the person making the offer will have control of the company; or
 - (ii) to acquire all the shares in the company which are of the same class as the scheme shares;
 - (b) obtains control of a company whose shares are scheme shares in pursuance of a compromise or arrangement sanctioned by the court under section 425 of the ^{M21}Companies Act 1985 or Article 418 of the ^{M22}Companies (Northern Ireland) Order 1986; or
 - (c) becomes bound or entitled to acquire shares in a company whose shares are scheme shares under sections 428 to 430 of that Act or Articles 421 to 423 of that Order,
- any participant in the scheme may at any time within the appropriate period, by agreement with the acquiring company, release his rights under the scheme (in this

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paragraph referred to as “the old rights”) in consideration of the grant to him of rights (in this paragraph referred to as “the new rights”) which are equivalent to the old rights but relate to shares in a different company (whether the acquiring company itself or some other company falling within paragraph 10(b) or (c) above).

- (2) In sub-paragraph (1) above “the appropriate period” means—
- (a) in a case falling within paragraph (a), the period of six months beginning with the time when the person making the offer has obtained control of the company and any condition subject to which the offer is made is satisfied;
 - (b) in a case falling within paragraph (b), the period of six months beginning with the time when the court sanctions the compromise or arrangement; and
 - (c) in a case falling within paragraph (c), the period during which the acquiring company remains bound or entitled as mentioned in that paragraph.
- (3) The new rights shall not be regarded for the purposes of this paragraph as equivalent to the old rights unless—
- (a) the shares to which they relate satisfy the conditions specified, in relation to scheme shares, in paragraphs 10 to 14 above; and
 - (b) the new rights will be exercisable in the same manner as the old rights and subject to the provisions of the scheme as it had effect immediately before the release of the old rights; and
 - (c) the total market value, immediately before the release, of the shares which were subject to the participant’s old rights is equal to the total market value, immediately after the grant, of the shares in respect of which the new rights are granted to the participant; and
 - (d) the total amount payable by the participant for the acquisition of shares in pursuance of the new rights is equal to the total amount that would have been payable for the acquisition of shares in pursuance of the old rights.
- (4) Where any new rights are granted pursuant to a provision included in a scheme by virtue of this paragraph they shall be regarded—
- (a) for the purposes of section 185 and this Schedule; and
 - (b) for the purposes of the subsequent application (by virtue of a condition complying with sub-paragraph (3)(b) above) of the provisions of the scheme, as having been granted at the time when the corresponding old rights were granted.
- (5) ^{M23}Where a scheme which was approved before 1st August 1987 is altered before 1st August 1989 so as to include such a provision as is mentioned above (“an exchange provision”), the scheme as altered may by virtue of this and the following sub-paragraphs apply that provision to rights obtained under the scheme before the date on which the alteration takes effect.
- (6) If an exchange provision is applied as mentioned in sub-paragraph (5) above in a case where, on or after 17th March 1987 but before the date on which the alteration takes effect, an event has occurred by reason of which a person holding rights under the scheme would be able to take advantage of the exchange provision—
- (a) the scheme may permit a person who held rights under the scheme immediately before that event to take advantage of the exchange provision; and
 - (b) in a case where rights then held would otherwise, by reason of the event, have ceased to be exercisable, the scheme may provide that the exchange provision shall apply as if the rights were still exercisable.

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- (7) The application of an exchange provision as mentioned in sub-paragraph (5) or (6) above shall not itself be regarded for the purposes of this Schedule as the acquisition of a right.
- (8) Sub-paragraphs (5) and (6) above have effect subject to paragraph 4 above.

Marginal Citations

M20 Source—1980 Sch.10, 10A; 1984 Sch.10 4A; 1987 Sch.4 1, 2; 1987 (No.2) s.59

M21 1985 c. 6.

M22 S.I. 1986/1032 (N.I. 6).

M23 Source—1987 Sch.4 3

PART III

REQUIREMENTS APPLICABLE TO SAVINGS-RELATED SHARE OPTION SCHEMES

- 16 (1) ^{M24}The scheme must provide for the scheme shares to be paid for with moneys not exceeding the amount of repayments made and any interest paid to them under a certified contractual savings scheme which has been approved by the Board for the purposes of this Schedule.
- (2) ^{M25}Where the Board are satisfied that—
- (a) a person has entered into a certified contractual savings scheme before 15th November 1980, and
 - (b) he has obtained rights under a scheme established before that date to acquire shares in a company of which he is an employee or director (or a company of which such a company has control) using repayments made under the certified contractual savings scheme;
- then, repayments and interest paid under the certified contractual savings scheme shall be treated as repayments and interest paid, under a scheme approved by the Board for the purposes of this Schedule under sub-paragraph (1) above, and, accordingly, may be used for the purchase of shares under a savings-related share option scheme approved under this Schedule.
- (3) The repayments and interest to which sub-paragraph (2) above applies shall not exceed the repayments and interest to which the participant would have been entitled if the terms of the scheme had corresponded to those of a certified contractual savings scheme approved by the Board under sub-paragraph (1) above.

Marginal Citations

M24 Source—1980 Sch.10 5(b)

M25 Source—1980 Sch.10 24

- 17 ^{M26}Subject to paragraphs 18 to 21 below, the rights obtained under the scheme must not be capable of being exercised before the bonus date, that is to say, the date on

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which repayments under the certified contractual savings scheme are due; and for the purposes of this paragraph and paragraph 16 above—

- (a) repayments under a certified contractual savings scheme may be taken as including or as not including a bonus;
- (b) the time when repayments are due shall be, where repayments are taken as including the maximum bonus, the earliest date on which the maximum bonus is payable and, in any other case, the earliest date on which a bonus is payable under the scheme; and
- (c) the question what is to be taken as so included must be required to be determined at the time when rights under the scheme are obtained.

Marginal Citations

M26 Source—1980 Sch.10 6

- 18 ^{M27}The scheme must provide that if a person who has obtained rights under the scheme dies before the bonus date the rights must be exercised, if at all, within 12 months after the date of his death and if he dies within six months after the bonus date the rights may be exercised within 12 months after the bonus date.

Marginal Citations

M27 Source—1980 Sch.10 7

- 19 ^{M28}The scheme must provide that if a person who has obtained rights under it ceases to hold the office or employment by virtue of which he is eligible to participate in the scheme by reason of—
- (a) injury or disability or redundancy within the meaning of the ^{M29}Employment Protection (Consolidation) Act 1978; or
 - (b) retirement on reaching [^{F7}the specified age] or any other age at which he is bound to retire in accordance with the terms of his contract of employment,
- then the rights must be exercised, if at all, within six months of his so ceasing and, if he so ceases for any other reason within three years of obtaining the rights, they may not be exercised at all except pursuant to such a provision of the scheme as is mentioned in paragraph 21(1)(e) below; and in relation to the case where he so ceases for any other reason more than three years after obtaining the rights the scheme must either provide that the rights may not be exercised or that they must be exercised, if at all, within six months of his so ceasing.

Textual Amendments

F7 Words in [Sch. 9 para. 19\(b\)](#) substituted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s. 38\(2\)\(6\)](#)

Marginal Citations

M28 Source—1980 Sch.10 8; 1986 s.23(3)

M29 1978 c. 44.

Status: Point in time view as at 01/01/1994. This version of this schedule contains provisions that are not valid for this point in time.

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- 20 ^{M30}The scheme must provide that where a person who has obtained rights under it continues to hold the office or employment by virtue of which he is eligible to participate in the scheme after the date on which he reaches [^{F8}the specified age], he may exercise the rights within six months of that date.

Textual Amendments

F8 Words in Sch. 9 para. 20 substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 38(2)(6)

Marginal Citations

M30 Source—1980 Sch.10 9

- 21 (1) ^{M31}The scheme may provide that—
- (a) if any person obtains control of a company whose shares are scheme shares as a result of making a general offer falling within paragraph 15(a)(i) or (ii) above, rights obtained under the scheme to acquire shares in the company may be exercised within six months of the time when the person making the offer has obtained control of the company and any condition subject to which the offer is made has been satisfied;
 - (b) if under section 425 of the ^{M32}Companies Act 1985 or Article 418 of the ^{M33}Companies (Northern Ireland) Order 1986 (power to compromise with creditors and members) the court sanctions a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction of a company whose shares are scheme shares or its amalgamation with any other company or companies, rights obtained under the share option scheme to acquire shares in the company may be exercised within six months of the court sanctioning the compromise or arrangement;
 - (c) if any person becomes bound or entitled, under sections 428 to 430 of that Act of 1985 or Articles 421 to 423 of that Order of 1986 (power to acquire shares of shareholders dissenting from schemes or contract approved by majority), to acquire shares in a company shares in which are scheme shares, rights obtained under the scheme to acquire shares in the company may be exercised at any time when that person remains so bound or entitled;
 - (d) if a company whose shares are scheme shares passes a resolution for voluntary winding up, rights obtained under a scheme to acquire shares in the company may be exercised within six months of the passing of the resolution; and
 - (e) if a person ceases to hold an office or employment by virtue of which he is eligible to participate in the scheme by reason only that—
 - (i) that office or employment is in a company of which the grantor ceases to have control; or
 - (ii) that office or employment relates to a business or part of a business which is transferred to a person who is neither an associated company of the grantor nor a company of which the grantor has control;rights under the scheme held by that person may be exercised within six months of his so ceasing.

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- (2) For the purposes of this paragraph a person shall be deemed to have obtained control of a company if he and others acting in concert with him have together obtained control of it.
- (3) Where a scheme which has been approved before 1st August 1986 has been or is altered before 1st August 1988 so as to include such a provision as is specified in sub-paragraph (1)(e) above, the scheme as altered may by virtue of this sub-paragraph apply that provision to rights obtained under the scheme before the date on which the alteration takes effect, and where that provision is so applied in relation to such rights—
- (a) the scheme may permit a person having such rights to take advantage of the provision notwithstanding that under the scheme he would otherwise be unable to exercise those rights after he has ceased to hold the office or employment in question; and
 - (b) if, before the date on which the alteration takes effect, a person who held such rights on 18th March 1986 ceases, in either of the circumstances set out in sub-paragraph (1)(e) above, to hold an office or employment by virtue of which he was eligible to participate in the scheme, then, so far as concerns the rights so held, the scheme may permit him to take advantage of the provision in question as if the alteration had been made immediately before he ceased to hold that office or employment; and
 - (c) the application of the provision shall not itself be regarded as the acquisition of a right for the purposes of this Schedule.

This sub-paragraph has effect subject to paragraph 4 above.

Marginal Citations

M31 Source—1980 Sch.10 10; 1986 s.25(4), (8), (9)

M32 1985 c. 6

M33 S.I. 1986/1032 (N.I. 6).

- 22 ^{M34} Except as provided in paragraph 18 above, rights obtained by a person under the scheme must not be capable—

- (a) of being transferred by him, or
- (b) of being exercised later than six months after the bonus date.

Marginal Citations

M34 Source—1980 Sch.10 11

- 23 ^{M35} No person shall be treated for the purposes of paragraph 19 or 21(1)(e) above as ceasing to hold an office or employment by virtue of which he is eligible to participate in the scheme until he ceases to hold an office or employment in the grantor or in any associated company or company of which the grantor has control.

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Marginal Citations

M35 Source—1980 Sch.10 12; 1986 s.25(5)

- 24 (1) ^{M36}The scheme must provide for a person's contributions under the certified contractual savings scheme to be of such amount as to secure as nearly as may be repayment of an amount equal to that for which shares may be acquired in pursuance of rights obtained under the scheme; and for this purpose the amount of repayment under the certified contractual savings scheme shall be determined as mentioned in paragraph 17 above.
- (2) ^{M37}The scheme must not—
- (a) permit the aggregate amount of a person's contributions under certified contractual savings schemes linked to savings-related share option schemes approved under this Schedule to exceed [^{F9}£250] monthly, nor
 - (b) impose a minimum on the amount of a person's contributions which exceeds £10 monthly.
- (3) The Treasury may by order amend sub-paragraph (2) above by substituting for any amount for the time being specified in that sub-paragraph such amount as may be specified in the order.

Textual Amendments

F9 Figure in Sch. 9 para. 24(2)(a) substituted (01.09.1991) by virtue of [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s. 40\(1\)](#); [S.I. 1991/1741](#), [art.2](#).

Marginal Citations

M36 Source—1980 Sch.10 13(1)

M37 Source—1980 Sch.10 13(2), (3); 1984 s.39(5)

- 25 ^{M38}The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—
- (a) must be stated at the time the right is obtained, and
 - (b) must not be manifestly less than [^{F10}80%.] of the market value of shares of the same class at that time or, if the Board and the grantor agree in writing, at such earlier time or times as may be provided in the agreement,
- but the scheme may provide for such variation of the price as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

Textual Amendments

F10 1989 s.62(3). *Previously*
“90 per cent.”.

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Marginal Citations

M38 Source—1980 Sch.10 14

- 26 (1) ^{M39} Subject to paragraph 8 above, every person who—
- (a) is a full-time employee or a full-time director of the grantor or, in the case of a group scheme, a participating company, and
 - (b) has been such an employee or director at all times during a qualifying period not exceeding five years, and
 - (c) is chargeable to tax in respect of his office or employment under Case I of Schedule E,
- must be eligible to participate in the scheme, that is to say, to obtain and exercise rights under it, on similar terms, and those who do participate in the scheme must actually do so on similar terms.
- (2) For the purposes of sub-paragraph (1) above, the fact that the rights to be obtained by the persons participating in a scheme vary according to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that they are not eligible to participate in the scheme on similar terms or do not actually do so.
- (3) ^{M40} Except as provided by paragraph 19 above or pursuant to such a provision as is referred to in paragraph 21(1)(e) above, a person must not be eligible to participate in the scheme at any time unless he is at that time a director or employee of the grantor or, in the case of a group scheme, of a participating company.

Marginal Citations

M39 Source—1980 Sch.10 20; 1984 s.39(6); 1986 s.25(7)

M40 Source—1980 Sch.10 21; 1986 s.25(6)

PART IV

REQUIREMENTS APPLICABLE TO OTHER SHARE OPTION SCHEMES

- 27 (1) ^{M41} A person must not be eligible to obtain rights under the scheme at any time unless he is at that time a full-time director or qualifying employee of the grantor or, in the case of a group scheme, of a participating company, but the scheme may provide that a person may exercise rights under it after he has ceased to be a full-time director or qualifying employee.
- (2) ^{M42} The scheme must not permit any person obtaining rights under it to transfer any of them but may provide that, if a person who has obtained rights under it dies before exercising them, they may be exercised after, but not more than one year after, the date of his death.
- (3) Where the scheme contains the provision permitted by sub-paragraph (2) above and any rights are exercised—
- (a) after the death of the person who obtained them; but

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(b) before the expiry of the period of ten years beginning with his obtaining them;

subsection (3) of section 185 shall apply with the omission of the reference to subsection (5) of that section.

(4) ^{M43}In sub-paragraph (1) above “qualifying employee”, in relation to a company, means an employee of the company (other than one who is a director of the company or, in the case of a group scheme, of a participating company) who is required, under the terms of his employment, to work for the company for at least 20 hours a week.

Marginal Citations

M41 Source—1984 Sch.10 4(1)(a), (2)

M42 Source—1984 Sch.10, 12

M43 Source—1984 Sch. 10 15(1)

- 28 (1) ^{M44}The scheme must provide that no person shall obtain rights under it which would, at the time they are obtained, cause the aggregate market value of the shares which he may acquire in pursuance of rights obtained under the scheme or under any other share option scheme, not being a savings-related share option scheme, approved under this Schedule and established by the grantor or by any associated company of the grantor (and not exercised) to exceed or further exceed the appropriate limit.
- (2) The appropriate limit is the greater of—
- (a) £100,000; or
 - (b) if there were relevant emoluments for the preceding year of assessment, four times the amount of the relevant emoluments for the current or preceding year of assessment (whichever of those years gives the greater amount); or
 - (c) if there were no relevant emoluments for the preceding year of assessment, four times the amount of the relevant emoluments for the period of 12 months beginning with the first day during the current year of assessment in respect of which there are relevant emoluments.
- (3) For the purposes of sub-paragraph (1) above, the market value of shares shall be calculated as at the time when the rights in relation to those shares were obtained or, in a case where an agreement relating to them has been made under paragraph 29 below, such earlier time or times as may be provided in the agreement.
- (4) For the purposes of sub-paragraph (2) above, the relevant emoluments are such of the emoluments of the office or employment by virtue of which the person in question is eligible to participate in the scheme as are liable to be paid under deduction of tax pursuant to section 203 after deducting amounts included by virtue of Chapter II of Part V.

Marginal Citations

M44 Source—1984 Sch. 10 5

Status: Point in time view as at 01/01/1994. This version of this schedule contains provisions that are not valid for this point in time.

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- [^{F11}29] (1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—
- (a) must be stated at the time the right is obtained, and
 - (b) except where stated under provision included in the scheme pursuant to sub-paragraph (2) below, must not be manifestly less than the market value of shares of the same class at the material time.
- (2) The scheme may provide that, if sub-paragraph (3) below applies, scheme shares may be acquired by the exercise of a right obtained under the scheme at a price which is not manifestly less than 85 per cent. of the market value of shares of the same class at the material time.
- (3) This sub-paragraph applies if the conditions specified in sub-paragraph (4)(a) and, as the case may be, (b) or (c) below, are met—
- (a) where at the time the right is obtained the scheme is not a group scheme, as respects the grantor;
 - (b) where at the time the right is obtained the scheme is a group scheme, as respects each company to which the scheme is expressed to extend at that time.
- (4) The conditions are—
- (a) that the company has established, or is at the time the right is obtained a participating company in relation to, a scheme which is at that time an approved savings-related share option scheme or an approved profit sharing scheme (a “qualifying scheme”);
 - (b) where there is only one qualifying scheme, that every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence;
 - (c) where there is more than one qualifying scheme, that, in the case of each of those schemes, every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence.
- (5) In determining whether the condition specified in sub-paragraph (4)(a) above is met, the withdrawal of approval under paragraph 3 above with effect from a time before the right is obtained shall be disregarded if the withdrawal takes place retrospectively from a time after the right is obtained.
- (6) For the purposes of sub-paragraph (4)(b) and (c) above, an employee has been informed of the existence of a scheme by an appropriate person if he has been informed by one or more of the following—
- (a) a company by virtue of employment with which the employee is eligible to participate in the scheme,
 - (b) the grantor, and
 - (c) where the scheme under which the right to acquire the shares is obtained is a group scheme, any other company which is a participating company in relation to that scheme.
- (7) The scheme may provide for such variation of the price at which scheme shares may be acquired as may be necessary to take account of any variation in the share capital of which the scheme shares form part.

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- (8) In this paragraph, references to the material time are to the time the right to acquire the scheme shares is obtained or, if the Board and the grantor agree in writing, such earlier time or times as may be provided in the agreement.]

Textual Amendments

F11 S. 29 substituted (1.1.1992) by Finance Act 1991 (c. 31, SIF 63:1), s. 39(1)(7)

PART V

REQUIREMENTS APPLICABLE TO PROFIT SHARING SCHEMES

- 30 (1) ^{M45}The scheme must provide for the establishment of a body of persons resident in the United Kingdom (“the trustees”)—
- (a) who, out of moneys paid to them by the grantor or, in the case of a group scheme, a participating company, are required by the scheme to acquire shares in respect of which the conditions in paragraphs 10 to 12 and 14 above are fulfilled; and
 - (b) who are under a duty to appropriate shares acquired by them to individuals who participate in the scheme, not being individuals who are ineligible by virtue of paragraph 8 or 35 of this Schedule; and
 - (c) whose functions with respect to shares held by them are regulated by a trust which is constituted under the law of a part of the United Kingdom and the terms of which are embodied in an instrument which complies with the provisions of paragraphs 31 to 34 below.
- (2) ^{M46}If at any time after the Board have approved the scheme, an alteration is made in the terms of the trust referred to in sub-paragraph (1)(c) above, the approval shall not have effect after the date of the alteration unless the Board have approved the alteration.
- (3) ^{M47}The scheme must provide that the total of the initial market values of the shares appropriated to any one participant in a year of assessment will not exceed the relevant amount.
- (4) ^{M48}In this Part of this Schedule “initial market value”, in relation to a participant’s shares, means the market value of those shares determined—
- (a) except where paragraph (b) below applies, on the date on which the shares were appropriated to him; and
 - (b) if the Board and the trustees agree in writing, on or by reference to such earlier date or dates as may be provided for in the agreement.

Marginal Citations

M45 Source—1978 Sch.9 1(3)
M46 Source—1978 Sch.9 3(2)
M47 Source—1978 Sch.9 1 (4); 1983 s.25(1)
M48 Source—1978 s.53(4)

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- 31 ^{M49}The trust instrument shall provide that, as soon as practicable after any shares have been appropriated to a participant, the trustees will give him notice of the appropriation—
- (a) specifying the number and description of those shares; and
 - (b) stating their initial market value.

Marginal Citations

M49 Source—1978 Sch.9 12

- 32 (1) ^{M50}The trust instrument must contain a provision prohibiting the trustees from disposing of any shares, except as mentioned in paragraph 1(1)(a), (b) or (c) of Schedule 10, during the period of retention (whether by transfer to the participant or otherwise).
- (2) The trust instrument must contain a provision prohibiting the trustees from disposing of any shares after the end of the period of retention and before the release date except—
- (a) pursuant to a direction given by or on behalf of the participant or any person in whom the beneficial interest in his shares is for the time being vested; and
 - (b) by a transaction which would not involve a breach of the participant's obligations under paragraph 2(2)(c) or (d) above.

Marginal Citations

M50 Source—1978 Sch.9 13; 1980 s.46(13)

- 33 ^{M51}The trust instrument must contain a provision requiring the trustees—
- (a) subject to their obligations under paragraph 7 of Schedule 10 and to any such direction as is mentioned in paragraph 4(2) of that Schedule to pay over to the participant any money or money's worth received by them in respect of or by reference to any of his shares other than money's worth consisting of new shares within the meaning of paragraph 5 of that Schedule; and
 - (b) to deal only pursuant to a direction given by or on behalf of the participant or any person in whom the beneficial interest in his shares is for the time being vested with any right conferred in respect of any of his shares to be allotted other shares, securities or rights of any description.

Modifications etc. (not altering text)

C9 Sch. 9 para. 33(a) modified (with effect in accordance with s. 101(11)(12) of the affecting Act) by Finance Act 1994 (c. 9), s. 101(6) (with s. 101(14))

Marginal Citations

M51 Source—1978 Sch.9 14

- 34 ^{M52}The trust instrument must impose an obligation on the trustees—

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- (a) to maintain such records as may be necessary to enable the trustees to carry out their obligations under paragraph 7 of Schedule 10; and
- (b) where the participant becomes liable to income tax under Schedule E by reason of the occurrence of any event, to inform him of any facts relevant to determining that liability.

Marginal Citations

M52 Source—1978 Sch.9 15

- 35 (1) ^{M53} An individual shall not be eligible to have shares appropriated to him under the scheme at any time unless he is at that time or was within the preceding 18 months a director or employee of the grantor or, in the case of a group scheme, of a participating company.
- (2) ^{M54} An individual shall not be eligible to have shares appropriated to him under the scheme at any time if in that year of assessment shares have been appropriated to him under another approved scheme established by the grantor or by—
- (a) a company which controls or is controlled by the grantor or which is controlled by a company which also controls the grantor, or
 - (b) a company which is a member of a consortium owning the grantor or which is owned in part by the grantor as a member of a consortium.

Marginal Citations

M53 Source—1978 Sch.9 9

M54 Source—1978 Sch.9 10

- 36 (1) ^{M55} Subject to paragraphs 8 and 35 above, every person who at any time—
- (a) is a full-time employee or a full-time director of the grantor or, in the case of a group scheme, a participating company, and
 - (b) has been such an employee or director at all times during a qualifying period, not exceeding five years, ending at that time, and
 - (c) is chargeable to tax in respect of his office or employment under Case I of Schedule E,
- must then be eligible (subject to paragraphs 8 and 35 of this Schedule) to participate in the scheme on similar terms and those who do participate must actually do so on similar terms.
- (2) For the purposes of sub-paragraph (1) above, the fact that the number of shares to be appropriated to the participants in a scheme varies by reference to the levels of their remuneration, the length of their service or similar factors shall not be regarded as meaning that they are not eligible to participate in the scheme on similar terms or do not actually do so.

Marginal Citations

M55 Source—1978 Sch.9 2; 1983 s.25(4)

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PART VI

MATERIAL INTEREST TEST

f^{F12} Interests under trusts

Textual Amendments

F12 Sch. 9 Pts. 1, 2, 6 repealed (except for specified purposes) (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 112(1), Sch 8 Pt. 1** (with Sch. 7)

- 37 (1) This ^{M56} paragraph applies in a case where—
- (a) the individual (“the beneficiary”) was one of the objects of a discretionary trust; and
 - (b) the property subject to the trust at any time consisted of or included any shares or obligations of the company.
- (2) If neither the beneficiary nor any relevant associate of his had received any benefit under the discretionary trust before 14th November 1986, then, as respects any time before that date, the trustees of the settlement concerned shall not be regarded, by reason only of the matters referred to in sub-paragraph (1) above, as having been associates (as defined in section 417(3) and (4)) of the beneficiary.
- (3) If, on or after 14th November 1986—
- (a) the beneficiary ceases to be eligible to benefit under the discretionary trust by reason of—
 - (i) an irrevocable disclaimer or release executed by him under seal; or
 - (ii) the irrevocable exercise by the trustees of a power to exclude him from the objects of the trust; and
 - (b) immediately after he so ceases, no relevant associate of his is interested in the shares or obligations of the company which are subject to the trust; and
 - (c) during the period of 12 months ending with the date when the beneficiary so ceases, neither the beneficiary nor any relevant associate of his received any benefit under the trust,
- the beneficiary shall not be regarded, by reason only of the matters referred to in sub-paragraph (1) above, as having been interested in the shares or obligations of the company as mentioned in section 417(3)(c) at any time during the period of 12 months referred to in paragraph (c) above.
- (4) In sub-paragraphs (2) and (3) above “relevant associate” has the meaning given to “associate” by subsection (3) of section 417 but with the omission of paragraph (c) of that subsection.
- (5) Sub-paragraph (3)(a)(i) above, in its application to Scotland, shall be construed as if the words “under seal” were omitted.

Marginal Citations

M56 Source—1987 Sch.4 6-8

Status: Point in time view as at 01/01/1994. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Income and Corporation Taxes Act 1988, SCHEDULE 9 is up to date with all changes known to be in force on or before 15 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)

Options etc.

- 38 (1) For the purposes of section 187(3)(a) a right to acquire shares (however arising) shall be taken to be a right to control them.
- (2) Any reference in sub-paragraph (3) below to the shares attributed to an individual is a reference to the shares which, in accordance with section 187(3)(a), fall to be brought into account in his case to determine whether their number exceeds a particular percentage of the company's ordinary share capital.
- (3) In any case where—
- (a) the shares attributed to an individual consist of or include shares which he or any other person has a right to acquire; and
 - (b) the circumstances are such that, if that right were to be exercised, the shares acquired would be shares which were previously unissued and which the company is contractually bound to issue in the event of the exercise of the right;
- then, in determining at any time prior to the exercise of that right whether the number of shares attributed to the individual exceeds a particular percentage of the ordinary share capital of the company, that ordinary share capital shall be taken to be increased by the number of unissued shares referred to in paragraph (b) above.
- (4) This paragraph has effect as respects any time after 5th April 1987.

Shares held by trustees of approved profit sharing schemes

- 39 In applying section 187(3), as respects any time before or after the passing of this Act, there shall be disregarded—
- (a) the interest of the trustees of an approved profit sharing scheme in any shares which are held by them in accordance with the scheme and have not yet been appropriated to an individual; and
 - (b) any rights exercisable by those trustees by virtue of that interest.

^{F13} Shares subject to an employee benefit trust

Textual Amendments

F13 Sch. 9 para. 40 and preceding cross-heading inserted by Finance Act 1989 (c. 26), s. 65

- 40 (1) Where an individual has an interest in shares or obligations of the company as a beneficiary of an employee benefit trust, the trustees shall not be regarded as associates of his by reason only of that interest unless sub-paragraph (3) below applies in relation to him.
- (2) In this paragraph “employee benefit trust” has the same meaning as in paragraph 7 of Schedule 8.
- (3) This sub-paragraph applies in relation to an individual if at any time on or after 14th March 1989—
- (a) the individual, either on his own or with any one or more of his associates, or
 - (b) any associate of his, with or without other such associates,
- has been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25 per cent., or in

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the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company.

- (4) Sub-paragraphs (9) to (12) of paragraph 7 of Schedule 8 shall apply for the purposes of this paragraph in relation to an individual as they apply for the purposes of that paragraph in relation to an employee.]]

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