



Finance Act 1991

1991 CHAPTER 31

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Profit-related pay, share schemes etc.

^{F1}37

Textual Amendments

F1 S. 37 repealed (19.3.1997 in accordance with Sch. 18 Pt. VI(3) Note 1 of the amending Act) by 1997 c. 16, s. 61(2)(3), 113, **Sch. 18 Pt. VI(3)** Notes 1, 2

38 Employee share schemes: non-discrimination.

(1) The Taxes Act 1988 shall be amended as follows.

^{F2}(2)

(3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for “pensionable age” there shall be substituted “the relevant age”, and at the end of each of those paragraphs there shall be inserted—

“In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, Cross Heading: Profit-related pay, share schemes etc.. (See end of Document for details)

was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age.”.

- (4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of “shares” there shall be inserted—

“ “specified age,in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;”.

- (5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

“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.”

- (6) [^{F3}Subsection] (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

Textual Amendments
F2 S. 38(2) repealed (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 168\(2\), Sch. 8 Pt. 1](#) (with [Sch. 7](#))
F3 Word in s. 38(6) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 168\(3\)](#) (with [Sch. 7](#))

^{F4}39 Approved share option schemes: price at which shares may be acquired.

.....

Textual Amendments
F4 Ss. 39, 40 repealed (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

^{F4}40 Savings-related share option schemes.

.....

Textual Amendments
F4 Ss. 39, 40 repealed (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, Cross Heading: Profit-related pay, share schemes etc.. (See end of Document for details)

41 Profit sharing schemes.

- (1) In section 187(2) of the Taxes Act 1988, in the definition of “relevant amount” (limit on the value of shares that may be appropriated to a participant in a year of assessment) for “not less than £2,000 and not more than £6,000” there shall be substituted “not less than £3,000 and not more than £8,000”.
- (2) This section shall apply for the year 1991-92 and subsequent years of assessment.

42 Costs of establishing share option or profit sharing schemes: relief.

The following section shall be inserted after section 84 of the Taxes Act 1988—

“84A Costs of establishing share option or profit sharing schemes: relief.

- (1) Subsection (2) below applies where—
 - (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or
 - (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.
- (2) In such a case the expenditure—
 - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
 - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
 - (a) subsection (2) above applies, and
 - (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).
- (4) References in this section to approving are to approving under Schedule 9.
- (5) This section applies where the expenditure is incurred on or after 1st April 1991.”

43 Costs of establishing employee share ownership trusts: relief.

The following section shall be inserted after section 85 of the Taxes Act 1988—

“85A Costs of establishing employee share ownership trusts: relief.

- (1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.

Status: Point in time view as at 19/07/2007.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1991, Cross Heading: Profit-related pay, share schemes etc.. (See end of Document for details)

- (2) In such a case the expenditure—
- (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
 - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
- (a) subsection (2) above applies, and
 - (b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,
- for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).
- (4) In this section “qualifying employee share ownership trust shall be construed in accordance with Schedule 5 to the Finance Act 1989.
- (5) For the purposes of this section the trust is established when the deed under which it is established is executed.
- (6) This section applies where the expenditure is incurred on or after 1st April 1991.”

^{F5}44 Priority share allocations for employees etc.

.....

Textual Amendments

- F5** S. 44 repealed (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

Status:

Point in time view as at 19/07/2007.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1991, Cross Heading:
Profit-related pay, share schemes etc..