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## SCHEDULES

### SCHEDULE 6

#### CONSEQUENTIAL AMENDMENTS

#### PART 2

##### OTHER ENACTMENTS

##### *Finance Act 1969 (c. 32)*

- 122 (1) Section 58 of the Finance Act 1969 (disclosure of information for statistical purposes by Board of Inland Revenue) is amended as follows.
- (2) In subsection (1)(a)—
- (a) for “section 203 of the Taxes Act 1988 (pay as you earn)” substitute “PAYE regulations”;
  - (b) for “emoluments to which that section applies” substitute “earnings or amounts treated as earnings from an employment”.
- (3) In subsection (1)(b) for “emoluments” substitute “earnings or amounts treated as earnings”.
- (4) After subsection (1) insert—
- “(1A) In subsection (1) “earnings or amounts treated as earnings” means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of the Income Tax (Earnings and Pensions) Act 2003).”

##### *Taxes Management Act 1970 (c. 9)*

- 123 The Taxes Management Act 1970 is amended as follows.
- 124 In section 7(4) and (5) (notice of liability to income tax and capital gains tax) for “section 203 of the principal Act” substitute “PAYE regulations”.
- 125 (1) Amend section 9 (returns to include self-assessment) as follows.
- (2) In subsection (1) for “, 547(5) or 599A(5) of the principal Act” substitute “or 547(5) of the principal Act or section 626 of ITEPA 2003”.

<sup>F1</sup>(3) . . . . .

#### Textual Amendments

**F1** Sch. 6 para. 125(3) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

- 126 (1) Amend section 15 (return of employee’s emoluments etc.) as follows.

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- (2) For the sidenote to the section substitute “ Return of employees' earnings etc. ”
- (3) In subsection (3)(a) for “employment to which Chapter II of Part V of the principal Act applies” substitute “ employment which, for the purposes of the benefits code in ITEPA 2003, is a taxable employment under Part 2 of that Act (see section 66) but is not an excluded employment (see section 63 of that Act) ”.
- (4) In subsection (8)(a) for “the relevant sections, that is to say, sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the principal Act” substitute “ the relevant provisions, that is to say, Chapters 4 to 10 of Part 3 and sections 222 and 223 of ITEPA 2003 ”.
- (5) In subsection (9)(a) for “the relevant sections” substitute “ the relevant provisions ”.
- (6) In subsection (11)—
  - (a) for “the relevant sections”, in each place, substitute “ the relevant provisions ”; and
  - (b) in paragraph (a)(ii) for “section 141(3), 142(2), 145(3) or 156(8) of the principal Act” substitute “ section 328(1), 362, 363, 364 or 365 of ITEPA 2003 ”.
- (7) In subsection (13)—
  - (a) in the definition of “employee”, for “whose emoluments fall to be assessed under Schedule E” substitute “ whose earnings are within the charge to tax under ITEPA 2003 ”; and
  - (b) for the definition of “the relevant sections” substitute—
 

““the relevant provisions” has the meaning given by section (8)(a) above.”

127 For section 16A substitute—

**“16A Agency workers**

- (1) This section applies where—
  - (a) any services which an individual provides or is obliged to provide under an agency contract are treated under section 44(2) of ITEPA 2003 as the duties of an office or employment held by him with the agency, or
  - (b) any remuneration receivable under or in consequence of arrangements falling within section 45 of that Act is treated as earnings from an office or employment held by an individual with the agency.
- (2) Where this section applies—
  - (a) section 15 above shall apply as if the individual were employed by the agency, and
  - (b) section 16 above shall not apply to any payments made to the individual under or in consequence of the agency contract or the arrangements.
- (3) In this section “agency contract” and “remuneration” have the same meaning as in Chapter 7 of Part 2 of ITEPA 2003.”

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128 In section 42(3) (procedure for making claims etc.) for “section 203 of the principal Act” substitute “PAYE regulations”.

<sup>F2</sup>129 .....

**Textual Amendments**

**F2** Sch. 6 para. 129 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 358**

130 In section 59A (payments on account of income tax)—  
(a) in subsection (8)(b) for “section 203 of the principal Act” substitute “PAYE regulations”; and  
(b) in subsection (10) for “Regulations under section 203 of the principal Act (PAYE)” substitute “PAYE regulations”.

131 (1) Amend section 59B (payment of income tax and capital gains tax) as follows.  
(2) In subsection (1) for “, 547(5) or 599A(5) of the principal Act” substitute “ or 547(5) of the principal Act or section 626 of ITEPA 2003 ”.  
(3) In subsection (2)(a) for “section 203 of the principal Act” substitute “ PAYE regulations ”.  
(4) In subsection (8) for “Regulations under section 203 of the principal Act (PAYE)” substitute “ PAYE regulations ”.

132 In section 62(1A)(a) (priority of claim for tax)—  
(a) for “emoluments” substitute “ taxable earnings (as defined by section 10 of ITEPA 2003) ”;  
(b) for “section 203 of the principal Act (pay as you earn)” substitute “ PAYE regulations ”.

133 In section 63(3)(a) (recovery of tax in Scotland) for “section 203 of the principal Act (pay as you earn)” substitute “ PAYE regulations ”.

134 In section 64(1A)(a) (priority of claim for tax in Scotland)—  
(a) for “emoluments” substitute “ taxable earnings (as defined by section 10 of ITEPA 2003) ”;  
(b) for “section 203 of the principal Act (pay as you earn)” substitute “ PAYE regulations ”.

135 (1) Amend section 70 (evidence) as follows.

<sup>F3</sup>(2) .....

(3) In subsection (4) for “emoluments” in both places where it occurs substitute “ earnings or amounts treated as earnings ”.

(4) After subsection (4) insert—

“(5) In subsection (4) “earnings or amounts treated as earnings” means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003).”

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### Textual Amendments

**F3** Sch. 6 para. 135(2) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 44 para. 11\(f\)](#)

136 In section 91(3)(c) (effect on interest of reliefs) for “section 203 of the principal Act” substitute “PAYE regulations”.

137 (1) Amend the Table in section 98 (special returns, etc.) as follows.

(2) Omit from the first column of the Table the entries relating to—

- (a) regulations under section 202 of ICTA;
- (b) paragraph 117 of Schedule 8 to FA 2000;
- (c) paragraph 64 of Schedule 14 to FA 2000.

(3) At the end of the first column of the Table insert the following entries—

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“Regulations under section 589 of ITEPA 2003.

Regulations under section 715 of ITEPA 2003.

Paragraph 93 of Schedule 2 to ITEPA 2003.

Paragraph 45 of Schedule 3 to ITEPA 2003.

Paragraph 33 of Schedule 4 to ITEPA 2003.

Paragraph 51 of Schedule 5 to ITEPA 2003.”

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(4) Omit from the second column of the Table the entries relating to—

- (a) section 136(6) of ICTA;
- (b) section 140G of ICTA;
- (c) regulations under section 202 of ICTA;
- (d) regulations under section 203 of ICTA;
- (e) section 313(5) of ICTA;
- (f) section 85(1) and (2) of FA 1988;
- (g) paragraph 65 of Schedule 14 to FA 2000.

(5) At the end of the second column of the Table insert the following entries—

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“

Sections 432 and 433 of ITEPA 2003.

Section 445 of ITEPA 2003.

Sections 465 and 466 of ITEPA 2003.

Section 486 of ITEPA 2003.

Regulations under section 589 of ITEPA 2003.

Regulations under section 715 of ITEPA 2003.

PAYE regulations.

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Paragraph 52 of Schedule 5 to ITEPA 2003.”

- 138 In section 98A(1) (special penalties in the case of certain returns) for “Regulations under section 203(2) (PAYE) or” substitute “ PAYE regulations or regulations under section ”.
- 139 In section 118 (interpretation) after the entry relating to “inspector” insert—  
““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003,”.
- 140 In section 119(4) (construction of the Act) after “1992 Act” insert “ and ITEPA 2003 ”.
- 141 In paragraph 4(1A) of Schedule 1A (claims etc. not included in returns) for “section 203 of the principal Act” substitute “ PAYE regulations ”.
- <sup>F4</sup>142 .....

**Textual Amendments**

- <sup>F4</sup> Sch. 6 para. 142 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 358**

- 143 In Schedule 3A (electronic lodgement of tax returns etc.) in paragraph 2(4) (returns to which the Schedule applies) after “the principal Act” insert “ or under ITEPA 2003 ”.

*Finance Act 1973 (c. 51)*

- <sup>F5</sup>144 .....

**Textual Amendments**

- <sup>F5</sup> Sch. 6 paras. 144-147 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

- <sup>F5</sup>145 .....

**Textual Amendments**

- <sup>F5</sup> Sch. 6 paras. 144-147 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

- <sup>F5</sup>146 .....

**Textual Amendments**

- <sup>F5</sup> Sch. 6 paras. 144-147 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

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*Finance Act 1974 (c. 30)*

F5 147 .....

**Textual Amendments**

**F5** Sch. 6 paras. 144-147 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with [Sch. 9 paras. 1-9, 22](#))

*Interpretation Act 1978 (c. 30)*

148 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) after the definition of “Parliamentary election” insert—

““PAYE income” has the meaning given by section 683 of the Income Tax (Earnings and Pensions) Act 2003.

“PAYE regulations” means regulations under section 684 of that Act.”

*Education (Scotland) Act 1980 (c. 44)*

149 In section 73B of the Education (Scotland) Act 1980 (grants and loans: Scotland)—

- (a) in subsection (3)(g) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”; and
- (b) in subsection (4) for “income assessable to income tax under Schedule E” substitute “PAYE income”.

*Inheritance Tax Act 1984 (c. 51)*

150 The Inheritance Tax Act 1984 is amended as follows.

- 151 (1) Amend the following provisions as provided in sub-paragraph (2)—
- (a) section 13(4)(c) (dispositions by close companies for benefit of employees),
  - (b) section 72(4A) (property leaving employee trusts and newspaper trusts), and
  - (c) section 86(3)(c) (trusts for benefit of employees).
- (2) In each of those provisions, for “an employee share ownership plan approved under Schedule 8 to the Finance Act 2000” substitute “a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003”.

152 In section 14(1) (waiver of remuneration), for “would be assessable to income tax under Schedule E” substitute “would be earnings, or would be treated as earnings, and would constitute employment income (see section 7(2)(a) or (b) of the Income Tax (Earnings and Pensions) Act 2003)”.

*Bankruptcy (Scotland) Act 1985 (c. 66)*

153 In paragraph 1(1) of Schedule 3 to the Bankruptcy (Scotland) Act 1985 (preferred debts) for “section 203 of the Income and Corporation Taxes Act 1988 (pay as you earn)” substitute “PAYE regulations”.

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*Insolvency Act 1986 (c. 45)*

- 154 In paragraph 1 of Schedule 6 to the Insolvency Act 1986 (the categories of preferential debts)—
- (a) for “emoluments” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) ”; and
  - (b) for “section 203 of the Income and Corporation Taxes Act 1988 (pay as you earn)” substitute “ PAYE regulations ”.

*Finance Act 1988 (c. 39)*

- 155 (1) Section 73 of the Finance Act 1988 (consideration for certain restrictive undertakings) is amended as follows.
- (2) In subsection (2) for “any sum to which section 313 of that Act applies” substitute “ any payment which is treated as earnings of an employee by virtue of section 225 of the Income Tax (Earnings and Pensions) Act 2003 (payments for restrictive undertakings) ”.
  - (3) In subsection (3) for “Any sum to which section 313 of the Taxes Act 1988 applies” substitute “ Any payment which is treated as earnings of an employee by virtue of section 225 of the Income Tax (Earnings and Pensions) Act 2003 ”.

*Finance Act 1989 (c. 26)*

156 The Finance Act 1989 is amended as follows.

157 For section 43 substitute—

**“43 Schedule D: computation**

- (1) In calculating profits or gains of a trade to be charged under Schedule D for a period of account, no deduction is allowed for an amount charged in the accounts in respect of employees' remuneration, unless the remuneration is paid before the end of the period of 9 months immediately following the end of the period of account.
- (2) For the purposes of subsection (1) above an amount charged in the accounts in respect of employees' remuneration includes an amount—
  - (a) for which provision is made in the accounts, or
  - (b) which is held by an intermediary,with a view to its becoming employees' remuneration.
- (3) Subsection (1) above applies whether the amount is in respect of particular employments or in respect of employments generally.
- (4) If the remuneration is paid after the end of the period of 9 months mentioned in subsection (1) above, any deduction allowed in respect of it is allowed for the period of account in which it is paid and not for any other period of account.
- (5) If the profits of the trade are calculated before the end of the period of 9 months mentioned in subsection (1) above—

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- (a) it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
  - (b) if the remuneration is subsequently paid before the end of that period, the calculation is adjusted if a claim to adjust it is made to an officer of the Board within 2 years beginning with the end of the period of account.
- (6) For the purposes of this section, remuneration is paid when it—
- (a) is treated as received by an employee for the purposes of the Income Tax (Earnings and Pensions) Act 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
  - (b) would be so treated if it were not exempt income.
- (7) In this section—
- “employee” includes an office-holder and “employment” correspondingly includes an office, and
  - “remuneration” means an amount which is or is treated as earnings for the purposes of the Income Tax (Earnings and Pensions) Act 2003.”

158 For section 44 substitute—

**“44 Investment and insurance companies: computation**

- (1) In calculating the profits of an investment company for a period of account, no deduction is allowed for an amount charged in the accounts in respect of employees' remuneration, unless the remuneration is paid before the end of the period of 9 months immediately following the end of the period of account.
- (2) For the purposes of subsection (1) above an amount charged in the accounts in respect of employees' remuneration includes an amount—
  - (a) for which provision is made in the accounts, or
  - (b) which is held by an intermediary,
 with a view to its becoming employees' remuneration.
- (3) Subsection (1) above applies whether the amount is in respect of particular employments or in respect of employments generally.
- (4) If the remuneration is paid after the end of the period of 9 months mentioned in subsection (1) above, any deduction allowed in respect of it is allowed for the period of account in which it is paid and not for any other period of account.
- (5) If the profits of the trade are calculated before the end of the period of 9 months mentioned in subsection (1) above—
  - (a) it must be assumed, in making the calculation, that any remuneration which is unpaid when the calculation is made will not be paid before the end of that period, but
  - (b) if the remuneration is subsequently paid before the end of that period, the calculation is adjusted if a claim to adjust it is made to an



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officer of the Board by or on behalf of the company within 2 years beginning with the end of the period of account.

- (6) For the purposes of this section, remuneration is paid when it—
  - (a) is treated as received by an employee for the purposes of the Income Tax (Earnings and Pensions) Act 2003 by section 18, 19, 31 or 32 of that Act (receipt of money and non-money earnings), or
  - (b) would be so treated if it were not exempt income.
- (7) Where the profits of a company carrying on life assurance business are not charged under Case I of Schedule D, this section shall apply in calculating the profits as it applies in calculating the profits of an investment company; and in any such case—
  - (a) subsection (4) above shall have effect subject to section 86 below, and
  - (b) in construing section 86 below the remuneration shall be treated as expenses for the accounting period.
- (8) In this section—
  - “employee” includes an office-holder and “employment” correspondingly includes an office,
  - “investment company” has the same meaning as in Part 4 of the Taxes Act 1988, and
  - “remuneration” means an amount which is or is treated as earnings for the purposes of Parts 2 to 7 of the Income Tax (Earnings and Pensions) Act 2003.”

159 In section 53(2)(f) (amendments consequential on the substitution of a new section 167 of ICTA) for “sections 332(2)(c) and 418(3)(a)” substitute “section 418(3)(a)”.

160 (1) Amend section 69 (chargeable events in relation to employee share ownership trusts) as follows.

- (2) In subsection (3AA)—
  - (a) in paragraph (a) for “an employee share ownership” substitute “ a share incentive ”, and
  - (b) in paragraph (b) for “Schedule 8 to the Finance Act 2000” substitute “ Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 ”.
- (3) In the definition of “market value” in subsection (3AC), for “in Schedule 8 to the Finance Act 2000” substitute “ it has for the purposes of the SIP code (see paragraph 92 of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003) ”.
- (4) In subsection (4ZA)(b)—
  - (a) for “a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988” substitute “ an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of the Income Tax (Earnings and Pensions) Act 2003) ”, and
  - (b) in sub-paragraph (ii) for “that Schedule” substitute “ Schedule 3 to that Act ”.

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### Textual Amendments

**F6** Sch. 6 para. 161 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

- 162 In section 178(2) (setting of rates of interest)—
- (a) in paragraph (m) omit the words “160,”
  - (b) at the end of the first paragraph (p) omit the word “and”,
  - (c) renumber the second paragraph (p) as paragraph (q), and
  - (d) at the end of paragraph (r) insert “, and
  - (s) Chapter 7 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003.”.
- 163 (1) Amend Schedule 5 (employee share ownership trusts) as follows.
- (2) In paragraph 4(2A) (beneficiaries)—
- (a) for “a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988” substitute “ an SAYE option scheme ”, and
  - (b) in paragraph (b), for “that Schedule” substitute “ Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003 ”.
- (3) In paragraph 9(2ZA)(b) (transfers of securities on qualifying terms)—
- (a) for “a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988” substitute “ an SAYE option scheme ”, and
  - (b) in sub-paragraph (ii), for “that Schedule” substitute “ Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003 ”.
- (4) In paragraph 10 (other features)—
- (a) for “savings-related share option schemes approved under Schedule 9 to the Taxes Act 1988” substitute “ SAYE option schemes approved under Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003 ”; and
  - (b) for “that Schedule” substitute “ Schedule 9 to the Taxes Act 1988 ”.
- (5) After paragraph 17 insert—
- “18 For the purposes of this Schedule “SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of the Income Tax (Earnings and Pensions) Act 2003 (approved SAYE option schemes)).”

*Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))*

- 164 In paragraph 1 of Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (the categories of preferential debts)—
- (a) in sub-paragraph (1), for “emoluments” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) ”; and
  - (b) in sub-paragraph (2), for “section 203 of the Income and Corporation Taxes Act 1988 (pay as you earn)” substitute “ regulations made under section 684 of that Act (PAYE regulations) ”.

*Finance Act 1990 (c. 29)*

- 165 The Finance Act 1990 is amended as follows.

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F7 166 .....

**Textual Amendments**

F7 Sch. 6 para. 166 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

- 167 (1) Amend paragraph 4 of Schedule 14 (amendments of sections 322 and 323 of ICTA) as follows.
- (2) In sub-paragraph (1) for “sections 322(1)(a) and (2) and 323(1)” substitute “section 322(1)(a)”.
- (3) Omit sub-paragraph (2).

*Finance Act 1991 (c. 31)*

- 168 (1) Amend section 38 of the Finance Act 1991 (employee share schemes: non-discrimination) as follows.
- (2) Omit subsection (2).
- (3) In subsection (6) for “Subsections (2) and” substitute “ Subsection ”.

*Social Security Contributions and Benefits Act 1992 (c. 4)*

- 169 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 170 In section 1 (outline of contributory system), in subsection (2)(bb) for “emoluments” substitute “ general earnings ”.
- 171 In section 2 (categories of earners), in subsection (1)(a) for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings ”.
- 172 (1) Amend section 4 (payments treated as remuneration and earnings) as follows.
- (2) For subsection (4)(a) substitute—
- “(a) the amount of any gain calculated under section 479 or 480 of ITEPA 2003 in respect of which an amount counts as employment income of the earner under section 476 or 477 of that Act (charge on exercise, assignment or release of share option);”.
- (3) In subsection (4)(b) for “section 313 of the 1988 Act” substitute “ section 225 or 226 of ITEPA 2003 ”.
- (4) In subsection (6)(a) for “Schedule E” substitute “ the employment income Parts of ITEPA 2003 ”.
- 173 In section 7(1)(b) (meaning of “secondary contributor”) for “emoluments” in both places where it occurs substitute “ general earnings ”.
- 174 (1) Amend section 10 (Class 1A National Insurance contributions: benefits in kind etc.) as follows.
- (2) For subsection (1)(a) substitute—
- “(a) for any tax year an earner is chargeable to income tax under ITEPA 2003 on an amount of general earnings received by him from any employment (“the relevant employment”),”.

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(3) For subsection (1)(b) substitute—

“(b) the relevant employment is both—

- (i) employed earner’s employment, and
- (ii) an employment, other than an excluded employment, within the meaning of the benefits code (see Chapter 2 of Part 3 of ITEPA 2003).”

(4) In subsection (1)(c) for “emolument” substitute “ general earnings ”.

(5) In subsection (1) in the words after paragraph (c) for “emolument” substitute “ general earnings ”.

(6) In subsection (2)(b) for “emolument” substitute “ general earnings ”.

(7) In subsection (4)—

- (a) for “emolument” substitute “ general earnings ”;
- (b) for “it” substitute “ them ”.

(8) In subsection (6) for “emolument as is taken” substitute “ general earnings as are taken ”.

(9) For subsection (7) substitute—

“(7) In calculating for the purposes of this section the amount of general earnings received by an earner from an employment, a deduction under any of the excluded provisions is to be disregarded.

This subsection does not apply in relation to a deduction if subsection (7A) applies in relation to it.

(7A) Where—

- (a) a deduction in respect of a matter is allowed under an excluded provision, and
- (b) the amount deductible is at least equal to the whole of any corresponding amount which would (but for this section) fall by reference to that matter to be included in the general earnings mentioned in subsection (7),

the whole of the corresponding amount shall be treated as not included.

(7B) For the purposes of subsections (7) and (7A) “excluded provision” means—

- (a) any provision of Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee’s expenses), other than section 352 (limited deduction for agency fees paid by entertainers), and
- (b) any provision of Chapter 5 of Part 5 of ITEPA 2003 (deductions for earnings representing benefits or reimbursed expenses).”

(10) For subsection (8)(a) substitute—

“(a) modify the effect of subsections (7) and (7A) above by amending subsection (7B) so as to include any enactment contained in the Income Tax Acts within the meaning of “excluded provision”; or”.

(11) In subsection (8)(b)—

- (a) for “subsection (7)” substitute “ subsections (7) to (7B) ”;
- (b) for “under Schedule E” substitute “ on employment income ”.

*Status: Point in time view as at 01/04/2010.*

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- (12) In subsection (9)(a) for “emoluments” substitute “ general earnings ”.
- (13) Omit subsection (10).
- 175 (1) Amend section 10ZA (liability of third party provider of benefits in kind) as follows.
- (2) In subsection (1)(a) for “an emolument” substitute “ general earnings ”.
- (3) Amend subsection (1)(b) as follows—
- (a) for “the emolument, in so far as it is one in respect of which” substitute “ the general earnings, in so far as they are ones in respect of which ”;
- (b) for “consists” substitute “ consist ”.
- (4) In subsection (2), in the words after paragraph (b) for “an emolument” substitute “ general earnings ”.
- (5) In subsection (6) for “section 168(4) of the Income and Corporation Taxes Act 1988” substitute “ section 721(5) of ITEPA 2003 ”.
- 176 (1) Amend section 10ZB (non-cash vouchers provided by third parties) as follows.
- (2) In subsection (2)(a) for the words from “employment” to the end of the paragraph substitute “ employment which is an excluded employment for the purposes of the benefits code, and ”.
- (3) In subsection (2)(b) for “if that Chapter did apply to that employment” substitute “ if that employment were not an excluded employment ”.
- (4) In subsection (2), in the words following paragraph (b) for “as if that employment were employment to which that Chapter applied” substitute “ as if that employment were not an excluded employment ”.
- (5) In subsection (3) for “section 141 of the Income and Corporation Taxes Act 1988” substitute “ section 84 of ITEPA 2003 ”.
- 177 (1) Amend section 10A (Class 1B National Insurance contributions) as follows.
- (2) In subsection (1) for “emoluments” substitute “ general earnings ”.
- (3) In subsection (2)(a) for “the emoluments included” substitute “ the general earnings included ”.
- (4) In subsection (4) for “Emoluments are chargeable emoluments” substitute “ General earnings are chargeable emoluments ”.
- (5) In subsection (5) for “emoluments” in both places where it occurs substitute “ general earnings ”.
- 178 (1) Amend section 122(1) (interpretation of Parts 1 to 6 and supplementary provisions) as follows.
- (2) Insert the following definitions in the appropriate places—
- ““the benefits code” has the meaning given by section 63(1) of ITEPA 2003;”
- ““the employment income Parts of ITEPA 2003” means Parts 2 to 7 of that Act;”

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““excluded employment” has the meaning given by section 63(4) of ITEPA 2003;”

““general earnings” has the meaning given by section 7 of ITEPA 2003 and accordingly sections 3 and 112 of this Act do not apply in relation to the word “earnings” when used in the expression “general earnings”;”

““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;”.

- (3) In the definition of “PAYE settlement agreement” for “section 206A of the Income and Corporation Taxes Act 1988” substitute “ Chapter 5 of Part 11 of ITEPA 2003 ”.
- 179 In section 126(5)(a)(ii) (trade disputes) for “emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations ”.
- 180 (1) Amend section 150(2) (interpretation of Part 10) as follows.
- (2) In paragraph (b) of the definition of “unemployability supplement or allowance”—
- (a) in sub-paragraph (ii) for “section 315(1) of the Income and Corporation Taxes Act 1988” substitute “ section 641 of the Income Tax (Earnings and Pensions) Act 2003 ”;
- (b) omit sub-paragraph (v).
- (3) In paragraph (b) of the definition of “war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988” substitute “ any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003 ”.
- (4) In the definition of “war widow’s pension” for “subsection (2)(e) of the said section 315” substitute “ section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003 ”.
- 181 In section 163(1) (interpretation of Part 11), in paragraph (a) of the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.
- 182 In section 171(1) (interpretation of Part 12), in paragraph (a) of the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.
- 183 In section 171ZJ(2)(a) (Part 12ZA: supplementary) for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.
- 184 In section 171ZS(2)(a) (Part 12ZB: supplementary) for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.
- 185 In Schedule 1 (supplementary provisions relating to contributions of Classes 1, 1A, 1B, 2 and 3)—
- (a) in paragraph 6(1)(a) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ PAYE regulations ”;

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- (b) in paragraph 6(1)(b) for “regulations under that section” substitute “PAYE regulations”;
- (c) in paragraph 6(7) for “regulations made under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”;
- (d) in paragraph 7(1)(a) for “regulations made by [<sup>F8</sup>an officer of Revenue and Customs] under section 203(2) or” substitute “PAYE regulations or regulations made under section”; and
- (e) in paragraph 7B(1) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”.

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Social Security Administration Act 1992 (c. 5)*

- 186 The Social Security Administration Act 1992 is amended as follows.
- 187 (1) Amend section 139(11) (definitions used in provisions relating to arrangements for council tax benefit) as follows.
- (2) In paragraph (b) of the definition of “war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988” substitute “any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003”.
  - (3) In the definition of “war widow’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003”.
- 188 (1) Amend section 159B(6) (effect of alterations affecting state pension credit) as follows.
- (2) In paragraph (b) of the definition of “war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003”.
  - (3) In paragraph (b) of the definition of “war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003”.
- 189 (1) Amend section 162(5) (destination of national insurance contributions) as follows.
- (2) In paragraph (c) for “emoluments” substitute “general earnings”.
  - (3) In paragraph (ca) for “emoluments” substitute “general earnings”.

#### *Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

- 190 The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.

*Status: Point in time view as at 01/04/2010.*

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- 191 In section 1 (outline of contributory system), in subsection (2)(bb) for  
“emoluments” substitute “ general earnings ”.
- 192 In section 2 (categories of earners), in subsection (1)(a) for “emoluments chargeable  
to income tax under Schedule E” substitute “ general earnings ”.
- 193 (1) Amend section 4 (payments treated as remuneration and earnings) as follows.
- (2) For subsection (4)(a) substitute—
- “ (a) the amount of any gain calculated under section 479 or 480 of  
ITEPA 2003 in respect of which an amount counts as employment  
income of the earner under section 476 or 477 of that Act (charge  
on exercise, assignment or release of share option);”.
- (3) In subsection (4)(b) for “section 313 of the 1988 Act” substitute “ section 225 or 226  
of ITEPA 2003 ”.
- (4) In subsection (6)(a) for “Schedule E” substitute “ the employment income Parts of  
ITEPA 2003 ”.
- 194 In section 7(1)(b) (meaning of “secondary contributor”) for “emoluments” in both  
places where it occurs substitute “ general earnings ”.
- 195 (1) Amend section 10 (Class 1A National Insurance contributions: benefits in kind etc.)  
as follows.
- (2) For subsection (1)(a) substitute—
- “ (a) for any tax year an earner is chargeable to income tax under ITEPA  
2003 on an amount of general earnings received by him from any  
employment (“the relevant employment”),”.
- (3) For subsection (1)(b) substitute—
- “ (b) the relevant employment is both—
- (i) employed earner’s employment, and
- (ii) an employment, other than an excluded employment, for the  
purposes of the benefits code (see Chapter 2 of Part 3 of  
ITEPA 2003),”.
- (4) In subsection (1)(c) for “emolument” substitute “ general earnings ”.
- (5) In subsection (1), in the words after paragraph (c) for “emolument” substitute “  
general earnings ”.
- (6) In subsection (2)(b) for “emolument” substitute “ general earnings ”.
- (7) In subsection (4)—
- (a) for “emolument” substitute “ general earnings ”;
- (b) for “it” substitute “ them ”.
- (8) In subsection (6) for “emolument” substitute “ general earnings ”.
- (9) For subsection (7) substitute—
- “(7) In calculating for the purposes of this section the amount of general earnings  
received by an earner from an employment, a deduction under any of the  
excluded provisions is to be disregarded.



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This subsection does not apply in relation to a deduction if subsection (7A) applies in relation to it.

(7A) Where—

- (a) a deduction in respect of a matter is allowed under an excluded provision, and
- (b) the amount deductible is at least equal to the whole of any corresponding amount which would (but for this section) fall by reference to that matter to be included in the general earnings mentioned in subsection (7),

the whole of the corresponding amount shall be treated as not included.

(7B) For the purposes of subsections (7) and (7A) “excluded provision” means—

- (a) any provision of Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee’s expenses) other than section 352 (limited deduction for agency fees paid by entertainers), and
- (b) any provision of Chapter 5 of Part 5 of ITEPA 2003 (deductions for earnings representing benefits or reimbursed expenses).”

(10) For subsection (8)(a) substitute—

- “(a) modify the effect of subsections (7) and (7A) above by amending subsection (7B) so as to include any enactment contained in the Income Tax Acts within the meaning of “excluded provision”; or”.

(11) In subsection (8)(b)—

- (a) for “subsection (7)” substitute “ subsections (7) to (7B) ”;
- (b) for “under Schedule E” substitute “ on employment income ”.

(12) In subsection (9)(a) for “emoluments” substitute “ general earnings ”.

(13) Omit subsection (10).

196 (1) Amend section 10ZA (liability of third party provider of benefits in kind) as follows.

(2) In subsection (1)(a) for “an emolument” substitute “ general earnings ”.

(3) Amend subsection (1)(b) as follows—

- (a) for “the emolument, in so far as it is one in respect of which” substitute “ the general earnings, in so far as they are ones in respect of which ”;
- (b) for “consists” substitute “ consist ”.

(4) In subsection (2), in the words after paragraph (b) for “an emolument” substitute “ general earnings ”.

(5) In subsection (6) for “section 168(4) of the Income and Corporation Taxes Act 1988” substitute “ section 721(5) of ITEPA 2003 ”.

197 (1) Amend section 10ZB (non-cash vouchers provided by third parties) as follows.

(2) In subsection (2)(a) for the words from “employment” to the end of the paragraph substitute “ employment which is an excluded employment for the purposes of the benefits code, and ”.

(3) In subsection (2)(b) for “if that Chapter did apply to that employment” substitute “ if that employment were not an excluded employment ”.

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- (4) In subsection (2), in the words following paragraph (b) for “as if that employment were employment to which that Chapter applied” substitute “ as if that employment were not an excluded employment ”.
- (5) In subsection (3) for “section 141 of the Income and Corporation Taxes Act 1988” substitute “ section 84 of ITEPA 2003 ”.
- 198 (1) Amend section 10A (Class 1B National Insurance contributions) as follows.
- (2) In subsection (1) for “emoluments” substitute “ general earnings ”.
- (3) In subsection (2)(a) for “the emoluments included” substitute “ the general earnings included ”.
- (4) In subsection (4) for “Emoluments are chargeable emoluments” substitute “ General earnings are chargeable emoluments ”.
- (5) In subsection (5) for “emoluments” in both places where it occurs substitute “ general earnings ”.
- 199 (1) Amend section 121(1) (interpretation of Parts 1 to 6 and supplementary provisions) as follows.
- (2) Insert the following definitions in the appropriate places—
- ““the benefits code” has the meaning given by section 63(1) of ITEPA 2003;”
- ““the employment income Parts of ITEPA 2003” means Parts 2 to 7 of that Act;”
- ““excluded employment” has the meaning given by section 63(4) of ITEPA 2003;”
- ““general earnings” has the meaning given by section 7 of ITEPA 2003 and accordingly sections 3 and 112 of this Act do not apply in relation to the word “earnings” when used in the expression “general earnings”;”
- ““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;”.
- (3) In the definition of “PAYE settlement agreement” for “section 206A of the Income and Corporation Taxes Act 1988” substitute “ Chapter 5 of Part 11 of ITEPA 2003 ”.
- 200 In section 125(5)(a)(ii) (trade disputes) for “emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations ”.
- 201 (1) Amend section 146(2) (interpretation of Part 10) as follows.
- (2) In paragraph (b) of the definition of “unemployability supplement or allowance”—
- (a) in sub-paragraph (ii) for “section 315(1) of the Income and Corporation Taxes Act 1988” substitute “ section 641 of the Income Tax (Earnings and Pensions) Act 2003 ”;
- (b) omit sub-paragraph (v).
- (3) In paragraph (b) of the definition of “war disablement pension”, for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988” substitute “ any of

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paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003 ”.

(4) In the definition of “war widow’s pension” for “subsection (2)(e) of the said section 315” substitute “ section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003 ”.

202 In section 159(1) (interpretation of Part 11), in paragraph (a) of the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.

203 In section 167(1) (interpretation of Part 12), in paragraph (a) of the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.

204 In Schedule 1 (supplementary provisions relating to contributions of Classes 1, 1A, 1B, 2 and 3)—

- (a) in paragraph 6(1)(a) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ PAYE regulations ”;
- (b) in paragraph 6(1)(b) for “regulations under that section” substitute “ PAYE regulations ”;
- (c) in paragraph 6(7) for “regulations made under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ PAYE regulations ”;
- (d) in paragraph 7(1)(a) for “regulations made by [<sup>F8</sup>an officer of Revenue and Customs] under section 203(2) or” substitute “ PAYE regulations or regulations made under section ”; and
- (e) in paragraph 7B(1) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ PAYE regulations ”.

#### Textual Amendments

**F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

205 (1) Section 139B(6) of the Social Security Administration (Northern Ireland) Act 1992 (effect of alterations affecting state pension credit) is amended as follows.

(2) b) of the definition of “war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “ any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003 ”.

(3) In paragraph (b) of the definition of “war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “ section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003 ”.

206 In section 142(5) of that Act (destination of national insurance contributions)—

- (a) in paragraph (c) for “emoluments” substitute “ general earnings ”;
- (b) in paragraph (ca) for “emoluments” substitute “ general earnings ”

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*Taxation of Chargeable Gains Act 1992 (c. 12)*

207 The Taxation of Chargeable Gains Act 1992 is amended as follows.

F9 208 .....

**Textual Amendments**

**F9** Sch. 6 para. 208 omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 79(a)**

209 In section 11(1) (visiting forces, agents-general etc.)—

- (a) for “section 323(1) of the Taxes Act” substitute “ section 303(1) of ITEPA 2003 ”; and
- (b) for “subsection (2) of section 323 and subsections (4) to (8) of that section shall apply accordingly” substitute “ section 303(2) to (6) of that Act and section 323(2) of the Taxes Act ”.

210 (1) Amend section 120 (increased expenditure by reference to tax charged in relation to shares etc.) as follows.

(2) For subsection (1) substitute—

“(1) Subsection (1A) applies where—

- (a) a person (“the employee”) has acquired shares or an interest in shares as mentioned in section 447(1) of ITEPA 2003, and
- (b) an amount counts as employment income of the employee under Chapter 4 of Part 7 of that Act in respect of the shares.

(1A) On the first disposal of the shares after the acquisition occurs, the employment income amount shall be treated for the purposes of section 38(1)

- (a) as consideration given by the person making the disposal for the acquisition of the shares.

(1B) For the purposes of subsections (1) and (1A)—

- (a) the “employment income amount” means the amount counting as employment income of the employee under that Chapter in respect of the shares, and
- (b) it is immaterial whether the disposal of the shares mentioned in subsection (1A) is made by the employee or another person.”

(3) In subsection (3)—

- (a) for “is chargeable to tax by virtue of section 162(5) of the Taxes Act” substitute “ is treated as earnings under section 195(2) of ITEPA 2003 ”, and
- (b) for “so chargeable” substitute “ so treated as earnings ”.

(4) In subsection (4)—

- (a) for “chargeable to tax under section 135(1) or (6) of the Taxes Act” substitute “ counting as employment income under section 476 or 477 of ITEPA 2003 ”, and
- (b) for “so chargeable to tax” substitute “ so counting as employment income ”.

(5) In subsection (5A)—

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- (a) for “is chargeable to tax under section 140A of the Taxes Act” substitute “counts as employment income under Chapter 2 of Part 7 of ITEPA 2003”, and
- (b) for “so chargeable” substitute “so counting as employment income”.
- (6) In subsection (5B)—
- (a) for “is chargeable to tax under section 140D of the Taxes Act” substitute “counts as employment income under Chapter 3 of Part 7 of ITEPA 2003”, and
- (b) for “so chargeable” substitute “so counting as employment income”.
- (7) Omit subsection (6).
- (8) For subsection (7) substitute—
- “(7) Each of the provisions of this section mentioned in the first column of the following table is to be construed as if it were contained in the Chapter of ITEPA 2003 specified in the corresponding entry in the second column—

<i>Provision of this section</i>	<i>Chapter of ITEPA 2003</i>
subsections (1), (1A) and (1B)	Chapter 4 of Part 7
subsection (3)	Chapter 8 of Part 3
subsection (4)	Chapter 5 of Part 7
subsection (5A)	Chapter 2 of Part 7
subsection (5B)	Chapter 3 of Part 7;

and subsection (5) of this section is to be construed as one with section 138 of the Taxes Act.”

- (9) After subsection (7) insert—
- “(7A) In relation to events that gave rise to amounts chargeable to income tax before 6th April 2003, this section is to be read as if any reference to an amount mentioned in the first column of the following table included a reference to an amount mentioned in the corresponding entry in the second column—

<i>Amount mentioned in this section</i>	<i>Amount chargeable before 6th April 2003</i>
an amount counting as employment income under Chapter 4 of Part 7 of ITEPA 2003	an amount chargeable to tax under Chapter 2 of Part 3 of the Finance Act 1988
an amount treated as earnings under section 195(2) of ITEPA 2003	an amount chargeable to tax under section 162(5) of the Taxes Act
an amount counting as employment income under section 476 or 477 of ITEPA 2003	an amount chargeable to tax under section 135(1) or (6) of the Taxes Act

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an amount which counts as employment income under Chapter 2 of Part 7 of ITEPA 2003

an amount chargeable to tax under section 140A of the Taxes Act

an amount which counts as employment income under Chapter 3 of Part 7 of ITEPA 2003

an amount chargeable to tax under section 140D of the Taxes Act.”

- (10) In subsection (8) for “section 140A of the Taxes Act” substitute “ Chapter 2 of Part 7 of ITEPA 2003 ”.
- 211 (1) Amend section 149B (employee incentive schemes: conditional interests in shares) as follows.
- (2) In subsection (1) for “section 140A of the Taxes Act” substitute “ Chapter 2 of Part 7 of ITEPA 2003 (conditional interests in shares) ”.
- (3) In subsection (2) for “section 140B of the Taxes Act” substitute “ section 429 of ITEPA 2003 ”.
- (4) In subsection (4)—
- (a) for “section 140A of the Taxes Act” substitute “ Chapter 2 of Part 7 of ITEPA 2003 ”, and
- (b) for “that section” substitute “ that Chapter ”.
- 212 After section 149B insert—

**“149C Priority share allocations**

Section 17(1) shall not apply to an acquisition of shares if section 542 or 544 of ITEPA 2003 applies in relation to it.”

- 213 In section 222(8D)(b) (relief on disposal of private residence), for “the same meanings as they have for the purposes of Chapter II of Part V of the Taxes Act” substitute “ the meanings given by Chapter 2 of Part 3 of ITEPA 2003 ”.
- 214 In section 236A (employee share ownership plans), and in the sidenote and in the italic heading immediately before the section, for “employee share ownership” wherever it occurs substitute “ share incentive ”.
- 215 In section 238(2)(a) (approved profit sharing and share option schemes), for “is chargeable to income tax” substitute “ counts as employment income (or was chargeable to income tax for the year 2002-03 or an earlier year of assessment ”.
- 216 After section 238 insert—

**“238A Approved share schemes and share incentives**

- (1) Schedule 7D (approved share schemes and share incentives) shall have effect.
- (2) Schedule 7D relates—
- (a) in Part 1, to approved share incentive plans (SIPs) (see section 488 of ITEPA 2003),
- (b) in Part 2, to approved SAYE option schemes (see section 516 of that Act),

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 2 is up to date with all changes known to be in force on or before 24 June 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)*

- (c) in Part 3, to approved CSOP schemes (CSOPs) (see section 521 of that Act), and
- (d) in Part 4, to enterprise management incentives (see section 527 of that Act).”

217 After section 263 insert—

**“263ZA Former employees: employment-related liabilities**

- (1) This section applies if—
  - (a) a deduction of the amount of one or more deductible payments may be made under section 555 of ITEPA 2003 (former employee entitled to deduction from total income in respect of liabilities related to the former employment) when computing a former employee’s total income for a tax year, and
  - (b) the total amount which may be deducted exceeds the total income for that year.
- (2) In this section “excess relief” means the amount of the difference between—
  - (a) the total amount which may be deducted, and
  - (b) the total income.
- (3) The amount of the excess relief may be treated as an allowable loss accruing to the former employee for that tax year.

This subsection applies only if the former employee makes a claim for the purpose.
- (4) But no relief is available under subsection (3) in respect of any amount of the excess relief that exceeds the maximum amount.
- (5) For the purposes of this section the “maximum amount”, in relation to the excess relief for a tax year, means the amount on which the former employee would be chargeable to capital gains tax for that year if the following were disregarded—
  - (a) any relief available under this section,
  - (b) any allowable losses falling to be carried forward to that year from a previous year for the purposes of section 2(2),
  - (c) section 3(1) (the annual exempt amount),
  - (d) any relief against capital gains tax under section 72 of the Finance Act 1991 (deduction of trading losses), and
  - (e) any relief against capital gains tax under section 90(4) of the Finance Act 1995 (relief for post-cessation expenditure).
- (6) A former employee may make a claim under subsection (3) and a claim under section 555(3) of ITEPA 2003 in the same notice.”

218 In section 271 (other miscellaneous exemptions), for subsection (1)(c) substitute—  
“(c) any gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund—  
(i) mentioned in section 614(2) of the Taxes Act,  
(ii) to which section 615(3) of the Taxes Act applies, or

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- (iii) mentioned in section 648, 649, 650, 651 or 653 of ITEPA 2003;”.
- 219 (1) Amend section 288(1) (interpretation) as follows.
- (2) In the entry relating to “allowable loss” for “and 16” substitute “ , 16 and 263ZA ”.
- (3) After the entry relating to “investment trust” insert—
- ““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;”.
- 220 (1) Amend Schedule 7C (relief for transfers to approved share plans) as follows.
- (2) In paragraph 1(1) (introductory) for “an employee share ownership” substitute “ a share incentive ”.
- (3) In paragraph 2 (conditions relating to the disposal)—
- (a) in sub-paragraph (1) for “Schedule 8 to the Finance Act 2000” substitute “ Schedule 2 to ITEPA 2003 ”,
- (b) in sub-paragraph (2)—
- (i) for “Part VIII” substitute “ Part 4 ”,
- (ii) for “used in plan” substitute “ awarded ”, and
- (iii) for “61(a) and (c)” substitute “ 27(1)(a) and (c) and (2) ”,
- (c) in sub-paragraph (4) for “of Schedule 8 to the Finance Act 2000” substitute “ given by paragraph 97 of Schedule 2 to ITEPA 2003 ”.
- 221 After Schedule 7C insert—

“SCHEDULE  
7D

Section 238A

APPROVED SHARE SCHEMES AND SHARE INCENTIVES

**PART 1**

APPROVED SHARE INCENTIVE PLANS

*Introductory*

- 1 (1) The provisions of this Part of this Schedule apply for capital gains tax purposes in relation to an approved share incentive plan (“the plan”).
- (2) This Part of this Schedule forms part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (3) Accordingly, expressions used in this Part of this Schedule and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by the index.
- (4) In particular, for the purposes of paragraphs 5 and 7 of this Schedule “market value” has the meaning given by paragraph 92 of Schedule 2 to that Act (determination of market value); and Part 8 of this Act has effect subject to this paragraph.



*Status: Point in time view as at 01/04/2010.*

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*Gains accruing to trustees*

- 2 (1) Any gain accruing to the trustees is not a chargeable gain if the shares—
- (a) are shares in relation to which the requirements of Part 4 of Schedule 2 to ITEPA 2003 (approved share incentive plans: types of shares that may be awarded) are met, and
  - (b) are awarded to employees, or acquired on their behalf as dividend shares, in accordance with the plan within the relevant period.
- (2) If any of the shares in the company in question are readily convertible assets at the time the shares are acquired by the trustees, the relevant period is the period of two years beginning with the date on which the shares were acquired by the trustees.
- This is subject to sub-paragraph (4).
- (3) If at the time of the acquisition of the shares by the trustees none of the shares in the company in question are readily convertible assets, the relevant period is—
- (a) the period of five years beginning with the date on which the shares were acquired by the trustees, or
  - (b) if within that period any of the shares in that company become readily convertible assets, the period of two years beginning with the date on which they did so,
- whichever ends first.
- This is subject to sub-paragraph (4).
- (4) If the shares are acquired by the trustees by virtue of a payment in respect of which a deduction is allowed under paragraph 9 of Schedule 4AA to the Taxes Act (deduction for contribution to plan trust), the relevant period is the period of ten years beginning with the date of acquisition.
- (5) For the purposes of determining whether shares are awarded to a participant within the relevant period, shares acquired by the trustees at an earlier time are taken to be awarded to a participant before shares of the same class acquired by the trustees at a later time.
- (6) Sub-paragraph (5) is subject to paragraph 78(1) of Schedule 2 to ITEPA 2003 (acquisition by trustees of shares from employee share ownership trust).
- (7) For the purposes of this paragraph “readily convertible assets” has the meaning given by sections 701 and 702 of that Act (readily convertible assets).
- This is subject to sub-paragraph (8).
- (8) In determining for the purposes of this paragraph whether shares are readily convertible assets any market for the shares that—
- (a) is created by virtue of the trustees acquiring shares for the purposes of the plan, and
  - (b) exists solely for the purposes of the plan,
- shall be disregarded.

*Status: Point in time view as at 01/04/2010.*

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- (9) In relation to shares acquired by the trustees before 11th May 2001 this paragraph has effect with the substitution—
- (a) in sub-paragraph (2), of “If the shares are readily convertible assets at the time they” for the words before “are acquired”, and
  - (b) in sub-paragraph (3)—
    - (i) of “If at the time of their acquisition by the trustees the shares are not readily convertible assets” for the words before “the relevant period”, and
    - (ii) in paragraph (b), of “the shares in question” for “any of the shares in that company”.

*Participant absolutely entitled as against trustees*

- 3 (1) Sub-paragraph (2) applies to any shares awarded to a participant under the plan.
- (2) The participant is treated for capital gains tax purposes as absolutely entitled to those shares as against the trustees.
- (3) Sub-paragraph (2) applies notwithstanding anything in the plan or the trust instrument.

*Different classes of shares*

- 4 (1) For the purposes of Chapter 1 of Part 4 of this Act (shares, securities, options etc: general) a participant’s plan shares are treated, so long as they are subject to the plan, as of a different class from any shares (which would otherwise be treated as of the same class) that are not plan shares.
- (2) For the purposes of that Chapter, any shares to which sub-paragraph (3) applies shall be treated as of a different class from any shares to which sub-paragraph (4) applies, even if they would otherwise fall to be treated as of the same class.
- (3) This sub-paragraph applies to any shares transferred to the trustees of the plan trust by a qualifying transfer that have not been awarded to participants under the plan.
- (4) This sub-paragraph applies to any shares held by the trustees that were not transferred to them by a qualifying transfer.
- (5) In this paragraph “qualifying transfer” has the meaning given in paragraph 78(2) of Schedule 2 to ITEPA 2003 (acquisition by trustees of shares from employee share ownership trust).
- (6) For the purposes of Chapter 1 of Part 4 of this Act any shares which—
  - (a) were acquired by the trustees by virtue of a payment in respect of which a deduction is allowed under paragraph 9 of Schedule 4AA to the Taxes Act (deduction for contribution to plan trust), and
  - (b) have not been awarded under the plan,
 shall be treated as of a different class from any shares held by the trustees that were not so acquired by them, even if they would otherwise fall to be treated as of the same class.

*Status: Point in time view as at 01/04/2010.*

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*No chargeable gain on shares ceasing to be subject to the plan*

- 5 (1) Shares which cease to be subject to the plan are treated as having been disposed of and immediately reacquired by the participant at market value.
- (2) Any gain accruing on that disposal is not a chargeable gain.

*Deemed disposal by trustees on disposal of beneficial interest*

- 6 (1) If at any time the participant's beneficial interest in any of his shares is disposed of, the shares in question shall be treated for the purposes of the SIP code as having been disposed of at that time by the trustees for the like consideration as was obtained for the disposal of the beneficial interest.
- (2) For this purpose there is no disposal of the participant's beneficial interest if and at the time when—
- (a) in England and Wales or Northern Ireland, that interest becomes vested in any person on the insolvency of the participant or otherwise by operation of law, or
- (b) in Scotland, that interest becomes vested in a judicial factor, in a trustee of the participant's sequestrated estate or in a trustee for the benefit of the participant's creditors.
- (3) If a disposal of shares falling within this paragraph is not at arm's length, the proceeds of the disposal shall be taken for the purposes of the SIP code to be equal to the market value of the shares at the time of the disposal.

*Treatment of forfeited shares*

- 7 (1) If any of the participant's plan shares are forfeited, they are treated as having been disposed of by the participant and acquired by the trustees at market value at the date of forfeiture.
- (2) Any gain accruing on that disposal is not a chargeable gain.

*Disposal of rights under rights issue*

- 8 (1) Any gain accruing on the disposal of rights under paragraph 77 of Schedule 2 to ITEPA 2003 (power of trustees to raise funds to subscribe for rights issue) is not a chargeable gain.
- (2) Sub-paragraph (1) does not apply to a disposal of rights unless similar rights are conferred in respect of all ordinary shares in the company.

**PART 2**

APPROVED SAYE OPTION SCHEMES

*Introductory*

- 9 (1) This Part of this Schedule forms part of the SAYE code (see section 516 of ITEPA 2003 (approved SAYE option schemes)).

*Status: Point in time view as at 01/04/2010.*

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- (2) Accordingly, expressions used in this Part of this Schedule and contained in the index at the end of Schedule 3 to that Act (approved SAYE option schemes) have the meaning indicated by the index.

*Market value rule not to apply*

- 10 (1) This paragraph applies where—
- (a) a share option (“the option”) has been granted to an individual—
    - (i) in accordance with the provisions of an approved SAYE option scheme, and
    - (ii) by reason of the individual’s office or employment as a director or employee of a company,
  - (b) the individual exercises the option in accordance with the provisions of the SAYE option scheme at a time when the scheme is approved, and
  - (c) condition A or condition B in section 519(2) or (3) of ITEPA 2003 (no charge in respect of exercise of option) is met.
- (2) The company mentioned in sub-paragraph (1)(a)(ii) may be—
- (a) the company whose shares are the subject of the option, or
  - (b) some other company.
- (3) If the option—
- (a) was granted under the SAYE option scheme before the withdrawal of approval under paragraph 42 of Schedule 3 to ITEPA 2003, but
  - (b) is exercised after the withdrawal of approval,
- then, for the purposes of sub-paragraph (1)(b) above in its application to the option, the scheme is to be treated as if it were still approved at the time of the exercise.
- (4) Section 17(1) (disposals and acquisitions treated as made at market value) shall not apply in calculating the consideration for—
- (a) the individual’s acquisition of shares by the exercise of the option, or
  - (b) any corresponding disposal of those shares to the individual.
- (5) References in sub-paragraphs (1)(b) and (4) above to the individual include references to a person exercising the option in accordance with provision included in the scheme by virtue of paragraph 32 of Schedule 3 to ITEPA 2003 (exercise of options: death); and sub-paragraph (1)(c) above does not apply in relation to a person so exercising the option.

### PART 3

#### APPROVED CSOP SCHEMES

##### *Introductory*

- 11 (1) This Part of this Schedule forms part of the CSOP code (see section 521 of ITEPA 2003 (approved CSOP schemes)).

*Status: Point in time view as at 01/04/2010.*

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- (2) Accordingly, expressions used in this Part of this Schedule and contained in the index at the end of Schedule 4 to that Act (approved CSOP schemes) have the meaning indicated by the index.
- (3) This Part of this Schedule applies where—
  - (a) a share option (“the option”) has been granted to an individual—
    - (i) in accordance with the provisions of an approved CSOP scheme, and
    - (ii) by reason of the individual’s office or employment as a director or employee of a company, and
  - (b) shares (“the relevant shares”) are acquired by the exercise of the option.
- (4) The company mentioned in sub-paragraph (3)(a)(ii) may be—
  - (a) the company whose shares are the subject of the option, or
  - (b) some other company.

*Relief where income tax charged in respect of grant of option*

- 12 (1) This paragraph applies where an amount (the “employment income amount”) counted as employment income of the individual under section 526 of ITEPA 2003 (charge where option granted at a discount) in respect of the option.
- (2) For the purposes of section 38(1)(a) (acquisition and disposal costs etc.), that part of the employment income amount which is attributable to the relevant shares shall be treated as consideration given for the acquisition of the relevant shares.
- (3) This paragraph also applies where the individual was chargeable to income tax on an amount in respect of the option under—
  - (a) subsection (6) of section 185 of ICTA (as it had effect before 1st January 1992),
  - (b) subsection (6A) of that section (as it had effect in relation to options obtained on or after 1st January 1992 but before 29th April 1996), or
  - (c) subsection (6) of that section (as it had effect in relation to options obtained on or after 29th April 1996);and in such a case the “employment income amount” means the amount on which the individual was so chargeable.
- (4) This paragraph applies whether or not—
  - (a) the exercise of the option is in accordance with the provisions of the CSOP scheme, or
  - (b) the CSOP scheme is approved at the time of the exercise.

*Market value rule not to apply*

- 13 (1) This paragraph applies where—
  - (a) the individual exercises the option in accordance with the provisions of the CSOP scheme at a time when the scheme is approved, and

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- (b) the condition in section 524(2) of ITEPA 2003 (no charge in respect of exercise of option) is met.
- (2) Section 17(1) (disposals and acquisitions treated as made at market value) shall not apply in calculating the consideration for—
  - (a) the individual's acquisition of the relevant shares by the exercise of the option, or
  - (b) any corresponding disposal of the relevant shares to the individual.
- (3) Sub-paragraph (2) also applies where the option is exercised at a time when the scheme is approved in accordance with provision included in the scheme by virtue of paragraph 25 of Schedule 4 to ITEPA 2003 (exercise of options: death); and references in that sub-paragraph to the individual are to be read accordingly.

## PART 4

### ENTERPRISE MANAGEMENT INCENTIVES

#### *Introductory*

- 14 (1) This Part of this Schedule forms part of the EMI code (see section 527 of ITEPA 2003 (enterprise management incentives: qualifying options)).
- (2) Accordingly, expressions used in this Part of this Schedule and contained in the index at the end of Schedule 5 to that Act (enterprise management incentives) have the meaning indicated by the index.
- (3) In this Part of this Schedule, “qualifying shares”—
- (a) means shares acquired by the exercise of a qualifying option, subject to sub-paragraphs (4) and (5), and
  - (b) includes shares (“replacement shares”) which—
    - (i) are treated under section 127 (equation of original shares and new holding) as the same asset as a holding of qualifying shares, and
    - (ii) meet the requirements of paragraph 35 of Schedule 5 to ITEPA 2003 (type of shares that may be acquired).
- (4) If a disqualifying event occurs in relation to a qualifying option (whether the original option or a replacement option), shares acquired by the exercise of that option are qualifying shares only if the option is exercised within 40 days of that event.
- (5) References in this Part of this Schedule to “the original option”, where there has been one or more replacement options, are to the option that the replacement option (or, if there has been more than one, the first of them) replaced.

#### *Taper relief on disposal of qualifying shares*

- 15 For the purposes of computing taper relief on a disposal of qualifying shares, the shares are treated as if they had been acquired when the original option was granted.

*Status: Point in time view as at 01/04/2010.*

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*Rights issues in respect of qualifying shares*

- 16 Where—
- (a) an individual holds qualifying shares, and
  - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a) (allotment in proportion to shareholdings), a reorganisation affecting that holding,
- sections 127 to 130 (which relate to reorganisation or reduction of share capital) shall not apply in relation to that holding.”

*Pension Schemes Act 1993 (c. 48)*

- 222 In section 181(1) of the Pension Schemes Act 1993 (general interpretation), in the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.

*Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

- 223 In section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 (general interpretation), in the definition of “employee” for “emoluments chargeable to income tax under Schedule E” substitute “ general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003) ”.

*Finance Act 1994 (c. 9)*

- 224 (1) In the Finance Act 1994, paragraph 27 of Schedule 24 (provisions relating to the Railways Act 1993 — employee benefits: transport vouchers) is amended as follows.
- (2) In sub-paragraph (3) for “Subsection (6) of section 141 of the Taxes Act 1988” substitute “ Section 86 of ITEPA 2003 (exception for certain transport vouchers) ”.
  - (3) In sub-paragraph (3)(c) for “paragraphs (a) to (d) of that subsection” substitute “ section 86(2)(a) to (d) of ITEPA 2003 ”.
  - (4) In sub-paragraph (12) after the definition of “the former transport voucher benefits for comparable employees” insert—  
““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003.”
  - (5) For sub-paragraph (13) substitute—  
“(13) Subject to paragraph 1(1) and sub-paragraph (12) above, expressions used in this paragraph and in section 86 of ITEPA 2003 have the same meaning in this paragraph as in that section.  
This does not apply in relation to the reference to a transport voucher in sub-paragraph (1) above.”

*Finance Act 1995 (c. 4)*

- 225 The Finance Act 1995 is amended as follows.

*Status: Point in time view as at 01/04/2010.*

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F10 226 .....

#### Textual Amendments

**F10** Sch. 6 para. 226 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

227 In section 137(7) (part-time workers: miscellaneous provisions) for “Subsections (2) to” substitute “ Subsection ”.

#### *Jobseekers Act 1995 (c. 18)*

228 The Jobseekers Act 1995 is amended as follows.

229 In section 15(2)(c)(i) (effect on other claimants) for “emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under PAYE regulations ”.

230 In section 26(3) (the back to work bonus) for the words from “Subject to section 617” to “not to be taxable)” substitute “ Subject to section 677 of the Income Tax (Earnings and Pensions) Act 2003 (which provides for a back to work bonus not to be taxable) ”.

#### *Child Support Act 1995 (c. 34)*

231 For section 10(4) of the Child Support Act 1995 (child maintenance bonus) substitute—

“(4) Subsection (3) is subject to section 677 of the Income Tax (Earnings and Pensions) Act 2003 (which provides for a back to work bonus not to be taxable).”

#### *Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))*

232 For Article 4(4) of the Child Support (Northern Ireland) Order 1995 (child maintenance bonus) substitute—

“(4) Paragraph (3) is subject to section 677 of the Income Tax (Earnings and Pensions) Act 2003 (which provides for a back to work bonus not to be taxable).”

#### *Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))*

233 The Jobseekers (Northern Ireland) Order 1995 is amended as follows.

234 In Article 17(2)(c)(i) (effect on other claimants) for “emoluments in pursuance of section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “ taxable earnings (as defined by section 10 of the Income Tax (Earnings and Pensions) Act 2003) under regulations made under section 684 of that Act (PAYE regulations) ”.

235 In Article 28(3) (the back to work bonus) for the words from “Subject to section 617” to “not to be taxable)” substitute “ Subject to section 677 of the Income Tax (Earnings and Pensions) Act 2003 (which provides for a back to work bonus not to be taxable) ”.



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*Teaching and Higher Education Act 1998 (c. 30)*

- 236 In section 22 of the Teaching and Higher Education Act 1998 (new arrangements for giving financial support to students)—
- (a) in subsection (5)(g) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”; and
  - (b) in subsection (6)(a) for “income assessable to income tax under Schedule E” substitute “PAYE income”.

*Scotland Act 1998 (c. 46)*

- 237 In section 79(3) of the Scotland Act 1998 (supplemental powers to modify enactments) for “section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”.

*Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760 (N.I. 14))*

- 238 In Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (new arrangements for giving financial support to students)—
- (a) in paragraph (5)(g) for “section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “section 684 of the Income Tax (Earnings and Pensions) Act 2003 (PAYE regulations)”; and
  - (b) in paragraph (6)(a) for “income assessable to income tax under Schedule E” substitute “PAYE income (as defined in section 683 of the Income Tax (Earnings and Pensions) Act 2003)”.

*Tax Credits Act 1999 (c. 10)*

- 239 The Tax Credits Act 1999 is amended as follows.
- 240 In section 6(1) (payment of tax credit by employers etc.) for “income assessable to income tax under Schedule E” substitute “PAYE income”.
- 241 In paragraph 10(1) of Schedule 2 (transfer of functions), in paragraph (b) of the subsection which, in any case where the overpayment was made in respect of tax credit, is treated as substituted for—
- (a) subsection (8) of section 71 of the Social Security Administration Act 1992 (c. 5), and
  - (b) subsection (8) of section 69 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8),
- for “section 203(2)(a) of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”.

*Finance Act 2000 (c. 17)*

- 242 The Finance Act 2000 is amended as follows.
- 243 (1) Amend section 38 (payroll deduction scheme) as follows.
- (2) In subsection (1)—
- (a) for “under section 202 of the Taxes Act 1988” substitute “for the purposes of section 714 of the Income Tax (Earnings and Pensions) Act 2003”,
  - (b) for “an employer” substitute “a person”,

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- (c) for “employee” substitute “ individual ”, and
- (d) for “employer”, in the second place where it occurs, substitute “ person ”.

(3) In subsection (4) for the definitions of “agent”, “employee” and “employer” substitute—

““agent” means an agent approved for the purposes of section 714 of the Income Tax (Earnings and Pensions) Act 2003;”.

F11 244 .....

#### Textual Amendments

**F11** Sch. 6 para. 244 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

F12 245 .....

#### Textual Amendments

**F12** Sch. 6 para. 245 repealed (with effect in accordance with Sch. 17 para. 5(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(12\)](#)

#### *Capital Allowances Act 2001 (c. 2)*

246 The Capital Allowances Act 2001 is amended as follows.

247 (1) Amend section 4 (capital expenditure) as follows.

(2) For subsection (2)(b) substitute—

“(b) any expenditure or sum that may be allowed as a deduction under a relevant provision from the taxable earnings from an employment or office held by the person.”

(3) After subsection (2) insert—

“(2A) In subsection (2)—

“relevant provision” means any of the following—

- (a) section 262;
- (b) section 232 of ITEPA 2003 (giving effect to mileage allowance relief);
- (c) Chapters 2 to 6 of Part 5 of that Act (general deductions allowed from earnings); and
- (d) sections 613(1), 619 and 639 of ICTA (contributions to pensions funds etc.), and

“taxable earnings” has the meaning given by section 10 of ITEPA 2003.”

(4) In subsection (3) for “emoluments” substitute “ earnings ”.

248 (1) Amend section 20 (employments and offices) as follows.

(2) In subsection (2)—

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- (a) for “emoluments” substitute “ earnings ”; and
  - (b) for “do not fall within Case I or II of Schedule E” substitute “ fall within section 22 or 26 of ITEPA 2003 ”.
- (3) In subsection (3)—
- (a) for “those emoluments” substitute “ those earnings ”; and
  - (b) for “other emoluments” substitute “ other taxable earnings (as defined by section 10 of ITEPA 2003) ”.
- 249 In section 61(2) (disposal events and disposal values), in entry 2(b) of the Table, for “Schedule E” substitute “ ITEPA 2003 ”.
- 250 In section 63(1) (cases in which disposal value is nil) for “Schedule E” substitute “ ITEPA 2003 ”.
- 251 In section 72(3) (disposal values), in entry 2(b) of the Table, for “Schedule E” substitute “ ITEPA 2003 ”.
- 252 In section 88(c) (sales at under-value) for “Schedule E” substitute “ ITEPA 2003 ”.
- 253 In section 262 (employments and offices)—
- (a) in paragraph (a) for “an amount to be deducted from the emoluments of” substitute “ a deduction from the taxable earnings from ”; and
  - (b) in paragraph (b) for “an emolument” substitute “ earnings ”.
- 254 In section 423(1) (disposal value for sections 421 and 422), in entry 2(b) of the Table, for “Schedule E” substitute “ ITEPA 2003 ”.
- 255 At the end of Part 1 of Schedule 1 (abbreviations) insert—

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“ITEPA 2003	The Income Tax (Earnings and Pensions) Act 2003”.
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<sup>F13</sup>256 .....

**Textual Amendments**

**F13** Sch. 6 para. 256 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Finance Act 2001 (c. 9)*

- 257 For section 95 of the Finance Act 2001 (exemptions in relation to employee share ownership plans) substitute—

**“95 Exemptions in relation to approved share incentive plans**

- (1) This section forms part of the SIP code (see section 488 of the Income Tax (Earnings and Pensions) Act 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in this section and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.

*Status: Point in time view as at 01/04/2010.*

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- (3) Where, under an approved share incentive plan, partnership shares or dividend shares are transferred by the trustees to an employee—
- (a) no ad valorem stamp duty is chargeable on any instrument by which the transfer is made, and
  - (b) no stamp duty reserve tax is chargeable on any agreement by the trustees to make the transfer.
- (4) But subsection (3) does not apply to—
- (a) any instrument executed (within the meaning of the Stamp Act 1891) before 6th April 2003, or
  - (b) any agreement to transfer shares made before that date.”

F14 258 .....

#### Textual Amendments

**F14** Sch. 6 para. 258 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### *Social Security Contributions (Share Options) Act 2001 (c. 20)*

- 259 The Social Security Contributions (Share Options) Act 2001 is amended as follows.
- 260 In section 2(3)(b) (effect of notice under section 1) for “section 135(3)(a) of the Income and Corporation Taxes Act 1988” substitute “ section 479 of the Income Tax (Earnings and Pensions) Act 2003 ”.
- 261 (1) Amend section 3 (special provision for roll-overs) as follows.
- (2) In subsection (4)(a) for “section 136(1) of the Income and Corporation Taxes Act 1988” substitute “ section 485(1) to (4) of the Income Tax (Earnings and Pensions) Act 2003 ”.
  - (3) In subsection (4)(b)(i) for “section 135(3)(a)” substitute “ section 479 ”.
  - (4) For subsection (6) substitute—
 

“(6) Subject to subsection (7), in relation to the replacement right or any subsequent right, section 485(1) to (3) of the Income Tax (Earnings and Pensions) Act 2003 (application of Chapter 5 of Part 7 where share option exchanged for another) shall be deemed to have effect (or, as the case may be, to have had effect) for the purposes of the determination mentioned in subsection (5) of this section—

    - (a) as if that section had effect (or, as the case may be, had had effect) in relation to that right to the extent only that it is a right to acquire additional shares; and
    - (b) as if the value of the consideration for the grant of the original right had been nil.”
  - (5) In subsection (7)(b) for “section 135 of the Income and Corporation Taxes Act 1988” substitute “ Chapter 5 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 ”.

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- (6) In subsection (11)(a) for “section 135(3)(a) of the Income and Corporation Taxes Act 1988” substitute “section 479 of the Income Tax (Earnings and Pensions) Act 2003”.
- 262 In section 5(2)(c) (interpretation)—
- (a) for “subsection (8) of section 135 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “section 483(1) of the Income Tax (Earnings and Pensions) Act 2003”; and
- (b) for “that section” substitute “Chapter 5 of Part 7 of that Act”.

*State Pension Credit Act 2002 (c. 16)*

- 263 (1) Section 17(1) of the State Pension Credit Act 2002 (other interpretation provisions) is amended as follows.
- (2) In paragraph (b) of the definition of “foreign war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “section 641 of the Income Tax (Earnings and Pensions) Act 2003”.
- (3) In paragraph (b) of the definition of “foreign war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003”.
- (4) In paragraph (b) of the definition of “war disablement pension”, for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003”.
- (5) In paragraph (b) of the definition of “war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003”.

*Tax Credits Act 2002 (c. 21)*

- 264 The Tax Credits Act 2002 is amended as follows.
- 265 (1) Amend section 25 (payments of working tax credit by employers) as follows.
- (2) In subsection (1) for “Schedule E payments” substitute “payments of, or on account of, PAYE income”.
- (3) In subsection (5) for “Schedule E payment” substitute “payment of, or on account of, PAYE income”.
- (4) Omit subsection (6).
- 266 In section 29(5) (recovery of overpayments) for “regulations under section 203(2) (a) of the Income and Corporation Taxes Act 1988 (c. 1) (PAYE)” substitute “PAYE regulations”.

*State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.))*

- 267 (1) Section 17(1) of the State Pension Credit Act (Northern Ireland) 2002 (other interpretation provisions) is amended as follows.

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- (2) In paragraph (b) of the definition of “foreign war disablement pension” for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “ section 641 of the Income Tax (Earnings and Pensions) Act 2003 ”.
- (3) In paragraph (b) of the definition of “foreign war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “ section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003 ”.
- (4) In paragraph (b) of the definition of “war disablement pension”, for “subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1)” substitute “ any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003 ”.
- (5) In paragraph (b) of the definition of “war widow’s or widower’s pension” for “section 315(2)(e) of the Income and Corporation Taxes Act 1988” substitute “ section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003 ”.

*Certain corresponding Northern Ireland provision*

- 268 (1) This paragraph applies if provision is made for Northern Ireland which corresponds to section 171ZJ of the Social Security Contributions and Benefits Act 1992 (c. 4) (Part 12ZA — statutory paternity pay: supplementary) (which was inserted by section 2 of the Employment Act 2002 (c. 22)).
- (2) In the Northern Ireland provision any reference to emoluments chargeable to income tax under Schedule E is to be construed as a reference to general earnings (as defined by section 7 of this Act).
- 269 (1) This paragraph applies if provision is made for Northern Ireland which corresponds to section 171ZS of the Social Security Contributions and Benefits Act 1992 (Part 12ZA — statutory adoption pay: supplementary) (which was inserted by section 4 of the Employment Act 2002).
- (2) In the Northern Ireland provision any reference to emoluments chargeable to income tax under Schedule E is to be construed as a reference to general earnings (as defined by section 7 of this Act).

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