



Finance Act 2000

2000 CHAPTER 17

PART III **U.K.**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II **U.K.**

OTHER PROVISIONS

Employee share ownership

47 **Employee share ownership plans.** **U.K.**

F1

Textual Amendments

F1 S. 47 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by *Income Tax (Earnings and Pensions) Act 2003* (c. 1), **Sch. 8 Pt. 1** (with Sch. 7)

48 **Relief for transfers to employee share ownership plans.** **U.K.**

(1) In the ^{M1}*Taxation of Chargeable Gains Act 1992*, after section 236 insert—

“ Employee share ownership plans

236A Relief for transfers to employee share ownership plans

Schedule 7C (which makes provision for roll-over relief where shares are transferred to an approved employee share ownership plan) shall have effect.”.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Cross Heading: Employee share ownership. (See end of Document for details)

(2) After Schedule 7B to that Act insert the Schedule 7C set out in Schedule 9 to this Act.

Marginal Citations

M1 1992 c. 12.

49 Phasing out of approved profit sharing schemes. U.K.

- (1) The Board shall not approve a profit sharing scheme under Schedule 9 to the Taxes Act 1988 (approval of share option schemes and profit sharing schemes) unless the application for approval is received by the Board before 6th April 2001.
- (2) For the purposes of subsection (1) an application for approval which is not accompanied by the particulars and evidence referred to in paragraph 1(2) of that Schedule is not regarded as received by the Board until the required particulars and evidence have been received by them.
- (3) In section 186 of that Act (approved profit sharing schemes), in subsection (1) (under which the section applies to appropriations of shares made after 5th April 1979) after “5th April 1979” insert “ and before 1st January 2003 ”.

F250 Phasing out of relief for payments to trustees of profit sharing schemes. U.K.

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Textual Amendments

F2 S. 50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 464](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

51 Approved profit sharing scheme: other awards of shares. U.K.

- (1) In Schedule 9 to the Taxes Act 1988 (approved share option schemes and profit sharing schemes), in paragraph 3(2) (grounds for withdrawing approval of profit sharing schemes), after “below” in paragraph (e) insert—

“; or

- (f) the trustees appropriate shares to participants, one or more of whom have had free shares appropriated to them, at an earlier time in the same year of assessment, under a relevant share plan”.

- (2) After paragraph 3(3) of that Schedule insert—

“(4) For the purposes of sub-paragraph (2)(f) above the reference to persons having had free shares appropriated to them includes persons who would have had free shares appropriated to them but for their failure to obtain a performance allowance (within the meaning of paragraph 25 of Schedule 8 to the Finance Act 2000).

- (5) In sub-paragraph (2)(f) and (4) above—

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“free shares” has the same meaning as in Schedule 8 to the Finance Act 2000;

“relevant share plan”, in relation to a profit sharing scheme, means an employee share ownership plan that—

- (a) was established by the grantor or a connected company, and
- (b) is approved under Schedule 8 to that Act.

(6) For the purposes of sub-paragraph (5) above “connected company” means—

- (a) a company which controls or is controlled by the grantor or which is controlled by a company which also controls the grantor, or
- (b) a company which is a member of a consortium owning the grantor or which is owned in part by the grantor as a member of a consortium.”.

52 Approved profit sharing schemes: restriction on type of shares. **U.K.**

- (1) Schedule 9 to the Taxes Act 1988 (share option schemes and profit sharing schemes) is amended in accordance with subsections (2) to (4).
- (2) In paragraph 9(1) (requirements to be satisfied by shares in share option schemes), after “below” insert “ (disregarding paragraph 11A) ”.
- (3) After paragraph 11 (requirements as to listing etc.) insert—

“11A

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

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- (5) For the purposes of this paragraph the question whether a person controls a company shall be determined in accordance with section 416(2) to (6).”
- (4) In paragraph 12—
- (a) in sub-paragraph (1), in paragraph (c) for “other than” to the end of that paragraph there shall be substituted “ other than those permitted by sub-paragraph (1A) below. ”, and
- (b) after sub-paragraph (1) insert—
- “(1A) Subject to sub-paragraph (1B) below, scheme shares may be subject to—
- (a) restrictions which attach to all shares of the same class, or
- (b) a restriction authorised by sub-paragraph (2) below.
- (1B) In the case of a profit sharing scheme, scheme shares must not be subject to any restrictions affecting the rights attaching to those shares which relate to—
- (a) dividends, or
- (b) assets on a winding-up of the company,
- other than restrictions which attach to all other ordinary shares in the same company.”.
- (5) Subsections (1) to (4) shall be deemed to have come into force on 21st March 2000.
- (6) Subsections (3) and (4) do not have effect in relation to shares acquired before 21st March 2000 by the trustees of a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988.

Commencement Information

II S. 52(1)-(4) deemed to have come into force at 21.3.2000 see s. 52(5)

53 Approved profit sharing schemes: loan arrangements. U.K.

- (1) In paragraph 2 of Schedule 9 to the Taxes Act 1988 (conditions for approval of share option schemes and profit sharing schemes), after sub-paragraph (2) insert—
- “(2A) The Board shall not approve a profit sharing scheme unless they are satisfied—
- (a) that the arrangements for the scheme do not make any provision, and are not in any way associated with any provision made, for loans to some or all of the employees of—
- (i) the company that established the scheme, or
- (ii) in the case of a group scheme, any participating company, and
- (b) that the operation of the scheme is not in any way associated with such loans.
- (2B) For the purposes of sub-paragraph (2A) above “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.”.

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(2) In paragraph 3(2) of that Schedule (withdrawal of approval of profit sharing schemes), before paragraph (d) insert—

“(ca) the Board—

- (i) cease to be satisfied of the matters mentioned in paragraph 2(2A) above, or
- (ii) in the case of a scheme approved before 21st March 2000, are not satisfied of those matters; or”.

(3) This section shall be deemed to have come into force on 21st March 2000.

54 Employee share ownership trusts. **U.K.**

No claim for relief under section 229(1) or (3) of the ^{M2}Taxation of Chargeable Gains Act 1992 (roll-over relief where disposal made to employee share ownership trust) may be made in relation to a disposal of shares, or an interest in shares, made on or after 6th April 2001.

Marginal Citations

M2 1992 c. 12.

55 Shares transferred from employee share ownership trust. **U.K.**

(1) Section 69 of the ^{M3}Finance Act 1989 (chargeable events in relation to employee share ownership trusts) is amended in accordance with subsections (2) to (5).

(2) In subsection (1) (definition of “chargeable event”), after paragraph (d) insert—

“(e) where—

- (i) the trustees make a qualifying transfer within subsection (3AA) below for a consideration, and
- (ii) they do not, during the period specified in subsection (5A) below, expend a sum of not less than the amount of that consideration for one or more qualifying purposes, the expiry of that period.”.

(3) After subsection (3) insert—

“(3AA) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—

- (a) it is a transfer of relevant shares made to the trustees of the plan trust of an employee share ownership plan,
- (b) the plan is approved under Schedule 8 to the Finance Act 2000 when the transfer is made, and
- (c) the consideration (if any) for which the transfer is made does not exceed the market value of the shares.

(3AB) For the purpose of determining whether a transfer by the trustees is a qualifying transfer within subsection (3AA) above, where on or after 21st March 2000—

- (a) the trustees transfer or dispose of part of a holding of shares (whether by way of a qualifying transfer or otherwise), and

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(b) the holding includes any relevant shares,
the relevant shares shall be treated as transferred or disposed of before any other shares included in that holding.

For this purpose “holding” means any number of shares of the same class held by the trustees, growing or diminishing as shares of that class are acquired or disposed of.

- (3AC) For the purposes of subsections (3AA) and (3AB) above—
“market value” has the same meaning as in Schedule 8 to the Finance Act 2000; and
“relevant shares” means—
(i) shares that are held by the trustees of the employee share ownership trust at midnight on 20th March 2000, and
(ii) shares purchased by those trustees with original funds after that time.

- (3AD) For the purposes of subsection (3AC) above—
(a) “original funds” means any money held by the trustees of the employee share ownership trust in a bank or building society account at midnight on 20th March 2000, and
(b) any payment made by the trustees after that time (whether to acquire shares or otherwise) shall be treated as made out of original funds (and not out of money received after that time) until those funds are exhausted.”.

(4) In subsection (5) after “(1)(d)” insert “ or (e) ”.

(5) After that subsection insert—

- “(5A) The period referred to in paragraph (e) of subsection (1) above is the period—
(a) beginning with the qualifying transfer mentioned in that paragraph, and
(b) ending nine months after the end of the period of account in which that qualifying transfer took place.

For this purpose the period of account means the period of account of the company that established the employee share ownership trust.”.

(6) In section 70 of the ^{M4}Finance Act 1989 (chargeable amounts), after subsection (3) insert—

- “(4) If the chargeable event falls within section 69(1)(e) above the chargeable amount is an amount equal to—
(a) the amount of the consideration received for the qualifying transfer mentioned in section 69(1)(e) above, less
(b) the amount of any expenditure by the trustees for a qualifying purpose during the period mentioned in section 69(5A) above.”.

Marginal Citations

M3 1989 c. 26.

M4 1989 c. 26.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Cross Heading: Employee share ownership. (See end of Document for details)

56 Further provisions about share options. U.K.

F3

Textual Amendments

F3 Ss. 56-60, 62 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 8 Pt. 1](#) (with Sch. 7)

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2000, Cross Heading:
Employee share ownership.