



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

CHAPTER 2

TAXABLE BENEFITS: THE BENEFITS CODE

General definitions for benefits code

66 Meaning of “employment” and related expressions

- (1) In the benefits code—
 - (a) “employment” means a taxable employment under Part 2, and
 - (b) “employed”, “employee” and “employer” have corresponding meanings.
- (2) Where a Chapter of the benefits code applies in relation to an employee—
 - (a) references in that Chapter to “the employment” are to the employment of that employee, and
 - (b) references in that Chapter to “the employer” are to the employer in respect of that employment.
- (3) For the purposes of the benefits code an employment is a “taxable employment under Part 2” in a tax year if the earnings from the employment for that year are (or would be if there were any) general earnings to which the charging provisions of Chapter 4 or 5 of Part 2 apply.
- (4) In subsection (3)—

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- (a) the reference to an employment includes employment as a director of a company, and
- (b) “earnings” means earnings as defined in Chapter 1 of this Part.

[^{F1}(5) In the benefits code “lower-paid employment as a minister of religion” has the same meaning as in Part 4 (see section 290D).]

Textual Amendments

F1 S. 66(5) inserted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 1 para. 6](#)

67 Meaning of “director” and “full-time working director”

- (1) In the benefits code “director” means—
 - (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that body,
 - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person, and
 - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,
 and includes any person in accordance with whose directions or instructions the directors of the company (as defined above) are accustomed to act.
- (2) For the purposes of subsection (1) a person is not to be regarded as a person in accordance with whose directions or instructions the directors of the company are accustomed to act merely because the directors act on advice given by that person in a professional capacity.
- (3) In the benefits code “full-time working director” means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity.

68 Meaning of “material interest” in a company

- (1) For the purposes of the benefits code a person has a material interest in a company if condition A or B is met.
- (2) Condition A is that the person (with or without one or more associates) or any associate of that person (with or without one or more [^{F2}other such associates]) is—
 - (a) the beneficial owner of, or
 - (b) able to control, directly or through the medium of other companies or by any other indirect means,
 more than 5% of the ordinary share capital of the company.
- (3) Condition B is that, in the case of a close company, the person (with or without one or more associates) or any associate of that person (with or without one or more [^{F3}other such associates]), possesses or is entitled to acquire, such rights as would—
 - (a) in the event of the winding-up of the company, or
 - (b) in any other circumstances,

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give an entitlement to receive more than 5% of the assets which would then be available for distribution among the participants.

(4) In this section—

“associate” has the meaning given by [^{F4}section 448 of CTA 2010] except that, for this purpose, “relative” in [^{F5}section 448(1)] has the meaning given by subsection (5) below, and

“participant” has the meaning given by [^{F6}section 454 of CTA 2010].

(5) For the purposes of this section a person (“A”) is a relative of another (“B”) if A is—

- (a) B’s spouse [^{F7}or civil partner],
- (b) a parent, child or remoter relation in the direct line either of B or of B’s spouse [^{F7}or civil partner],
- (c) a brother or sister of B or of B’s spouse [^{F7}or civil partner], or
- (d) the spouse [^{F7}or civil partner] of a person falling within paragraph (b) or (c).

Textual Amendments

- F2** Words in s. 68(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 383\(2\)](#) (with [Sch. 2](#))
- F3** Words in s. 68(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 383\(3\)](#) (with [Sch. 2](#))
- F4** Words in s. 68(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 383\(4\)\(a\)\(i\)](#) (with [Sch. 2](#))
- F5** Words in s. 68(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 383\(4\)\(a\)\(ii\)](#) (with [Sch. 2](#))
- F6** Words in s. 68(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 383\(4\)\(b\)](#) (with [Sch. 2](#))
- F7** Words in s. 68(5) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\), regs. 1\(1\), 140](#)

69 Extended meaning of “control”

(1) The definition of “control” in [^{F8}section 995 of ITA 2007] (which is applied for the purposes of this Act by section 719) is extended as follows.

(2) For the purposes of the benefits code that definition applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.

Textual Amendments

- F8** Words in s. 69(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 430](#) (with [Sch. 2](#))

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