

Status: Point in time view as at 19/07/2005.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 722

CONSEQUENTIAL AMENDMENTS

PART 1

INCOME AND CORPORATION TAXES ACT 1988

- 1 The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.
- 2 (1) Amend section 1 (the charge to income tax) as follows.
- (2) For subsection (1) substitute—
- “(1) Income tax is charged in accordance with the Income Tax Acts on—
- (a) all amounts which, under those Acts, are charged to tax under any of Schedules A, D and F (set out in sections 15, 18 and 20),
- (b) all amounts which are charged to tax under any of the following provisions of ITEPA 2003—
- (i) Part 2 (employment income),
- (ii) Part 9 (pension income), and
- (iii) Part 10 (social security income), and
- (c) any other amounts which, under the Income Tax Acts, are charged to income tax.”
- (3) In subsection (5A) for “section 203” substitute “PAYE regulations”.
- 3 In section 4(1) (construction of references in Income Tax Acts to deduction of tax) for “in pursuance of section 203” substitute “under PAYE regulations”.
- 4 In section 9(3) (computation of income for corporation tax: application of income tax principles)—
- (a) for “the like Schedules and Cases as apply for purposes of income tax” substitute—
- “(a) Schedules A, D and F, and the Cases of those Schedules, as they apply for purposes of income tax, and
- (b) the following provisions of ITEPA 2003 (which impose charges to income tax)—
- (i) Part 2 (employment income),
- (ii) Part 9 (pension income), and
- (iii) Part 10 (social security income),” and
- (b) after “those Schedules and Cases” insert “and those Parts”.
- 5 (1) Amend section 18 (Schedule D) as follows.

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(2) In subsection (1), in paragraph (b) of Schedule D, for “or E” substitute “ or under ITEPA 2003 as employment income, pension income or social security income ”.

(3) In subsection (3)—

- (a) in Case V for “income consisting of emoluments of any office or employment” substitute “ employment income, pension income or social security income on which tax is charged under ITEPA 2003 ”;
- (b) in Case VI for “or E” substitute “ or by virtue of ITEPA 2003 as employment income, pension income or social security income ”.

6 Omit section 19 (Schedule E).

7 In section 21A(2) (computation of amount chargeable)—

- (a) for “sections 588 and 589” substitute “ section 588 ”;
- (b) for “sections 589A and 589B” substitute “ section 589A ”;
- (c) for “1989 (deductions in respect of certain emoluments)” substitute “ 1989 (Schedule D: computation) ”.

8 Omit section 58 (foreign pensions).

F19

Textual Amendments

F1 Sch. 6 para. 9 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F210

Textual Amendments

F2 Sch. 6 para. 10 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

11 (1) Amend section 84A (costs of establishing share option or profit sharing schemes: relief from corporation tax) as follows.

(2) After subsection (3) insert—

“(3A) In this section, “share option scheme” means—

- (a) an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)), or
- (b) a CSOP scheme within the meaning of the CSOP code (see section 521(4) of that Act (approved CSOP schemes)).”

(3) In subsection (4), at the end add “to this Act or under Schedule 3 or 4 to ITEPA 2003 (approved SAYE option schemes and approved CSOP schemes)”.

12 After section 85A insert—

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“85B Approved share incentive plans

Schedule 4AA (which provides for deductions relating to approved share incentive plans) shall have effect.”

- 13 (1) Amend section 86A (charitable donations: contributions to agent’s expenses) as follows.
 - (2) In subsection (1)(a) for “by virtue of section 203 and regulations under that section” substitute “ under PAYE regulations ”.
 - (3) In subsection (1)(b) for the words from “a scheme” to the end of the paragraph substitute “ an approved scheme and pays the sums to an approved agent ”.
 - (4) After subsection (1) insert—
 - “(1A) In subsection (1)(b) “approved scheme” and “approved agent” have the same meaning as in section 714 of ITEPA 2003.”
- 14 Omit sections 131 to 134 (miscellaneous provisions relating to the Schedule E charge).
- 15 Omit sections 135 to 137 (provisions relating to gains by directors and employees from share options).
- 16 (1) Amend section 138 (share acquisitions by directors and employees) as follows.
 - (2) In subsection (1)(b) for “Schedule E” substitute “ the employment income Parts of ITEPA 2003 ”.
 - (3) In subsection (4)(b) for “Case I of Schedule E” substitute “ section 15 or 21 of ITEPA 2003 (earnings of employee resident and ordinarily resident in the UK) ”.
- 17 Omit section 140 (further interpretation of sections 135 to 139).
- 18 Omit sections 140A to 140H (further provisions relating to share acquisitions by directors and employees).
- 19 Omit sections 141 to 144 (vouchers and credit-tokens).
- 20 Omit section 144A (payments received free of tax).
- 21 Omit sections 145 to 147 (living accommodation).
- 22 Omit sections 148 to 151A (payments on retirement, sick pay and certain social security benefits).
- 23 For the sidenote to section 152 (notification of amount taxable under section 151) substitute “Notification of taxable amount of certain benefits”.
- 24 Omit sections 153 to 159AC and sections 160 to 168G (employees earning £8,500 or more and directors: expenses and benefits in kind).
- 25 Omit section 185 (approved share option schemes).
- 26 (1) Amend section 186 (approved profit sharing schemes) as follows.
 - (2) In subsection (3)—
 - (a) omit “the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the entitlement arises on”, and

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(b) at the end add “ counts as employment income of the participant for the year of assessment in which the entitlement arises ”.

(3) In subsection (4)—

(a) omit “the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on”, and

(b) at the end add “ counts as employment income of the participant for the year of assessment in which the disposal takes place ”.

(4) In subsection (5)(a), for the words from “chargeable to income tax” to “those shares” substitute “entitled to a capital receipt (within the meaning of subsection (3) above) which is referable to those shares and—

(i) an amount calculated by reference to that capital receipt counts as his employment income by virtue of subsection (3) above, or

(ii) if the entitlement to the capital receipt arose before 6th April 2003, he was chargeable to income tax by virtue of that subsection (as it had effect before that date) in respect of that capital receipt.”.

27 In section 187 (interpretation of sections 185 and 186 and Schedules 9 and 10) omit subsections (1) to (4), (6) and (7), except so far as relating to profit sharing schemes.

28 Omit the following provisions (which give relief from income tax on various kinds of income)—

- (a) section 187A;
- (b) sections 189 to 198;
- (c) sections 199 to 202.

29 Omit sections 202A and 202B (assessment on receipts basis).

30 Omit sections 203 to 204 (pay as you earn).

31 Omit sections 205 and 206 (assessments).

32 Omit section 206A (PAYE settlement agreements).

33 Omit section 207 (disputes as to domicile or ordinary residence).

F334

Textual Amendments

F3 Sch. 6 para. 34 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

35 In section 257C(2A) (indexation of amounts in sections 257 and 257A) for “section 203” substitute “ PAYE regulations ”.

36 After section 266 insert—

“266A Life assurance premiums paid by employer

(1) This section applies if—

- (a) pursuant to a non-approved retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the

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provision of any relevant benefits for or in respect of any employee of that employer, and

- (b) the payment is made under such an insurance or contract as is mentioned in section 266.

This section applies whether or not the accrual of the relevant benefits is dependent on any contingency.

- (2) Relief, if not otherwise allowable, shall be given to that employee under section 266 in respect of the payment to the extent, if any, to which such relief would have been allowable to him if—

- (a) the payment had been made by him, and
- (b) the insurance or contract under which the payment is made had been made with him.

- (3) For the purposes of subsection (1)(a)—

- (a) a retirement benefits scheme is “non-approved” unless it is—
 - (i) an approved scheme,
 - (ii) a relevant statutory scheme, or
 - (iii) a scheme set up by a government outside the United Kingdom for the benefit of its employees or primarily for their benefit, and
- (b) benefits are provided in respect of an employee if they are provided for the employee’s spouse, widow or widower, children, dependants or personal representatives.

- (4) Sections 611, 611A and 612 apply for the purposes of this section as they apply for the purposes of Chapter 1 of Part 14.

- (5) Section 388 of ITEPA 2003 (apportionment of payments in respect of more than one employee) applies in relation to a sum within subsection (1) as it applies in relation to a sum within section 386 of that Act (charge on payments to non-approved retirement benefits schemes).

- (6) This section does not apply in any case where either of the following provisions of ITEPA 2003 provides for section 386 of that Act not to apply—

- (a) section 389 (employments where earnings charged on remittance basis), and
- (b) section 390 (non-domiciled employees with foreign employers).”

37 In section 306(7) (claims) for “regulations made under section 203” substitute “PAYE regulations”.

38 In section 307(6)(a)(i) (withdrawal of relief) for “regulations under section 203” substitute “PAYE regulations”.

39 Omit section 313 (taxation of consideration for certain restrictive undertakings).

F⁴40

Textual Amendments

F4 Sch. 6 para. 40 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

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- 41 Omit sections 315 to 318 (pensions etc. paid in respect of military or war service etc.).
- 42 Omit section 319 (crown servants: foreign service allowance).
- 43 Omit section 321 (consuls and other official agents).
- F⁵44

Textual Amendments

F⁵ Sch. 6 para. 44 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

- 45 (1) Amend section 323 (visiting forces) as follows.
 - (2) Omit subsection (1).
 - (3) In subsection (2) for “subsection (1) above” substitute “ section 303(1) of ITEPA 2003 (exemption for earnings of visiting forces etc.) ”.
 - (4) In subsection (4)—
 - (a) for “subsections (1) and (2)” substitute “ subsection (2) ”;
 - (b) for “those subsections” substitute “ that subsection ”;
 - (c) before “the Visiting Forces Act 1952” insert “ Part 1 of ”.
 - (5) In subsection (5) for “subsections (1) and (2)” substitute “ subsection (2) ”.
 - (6) Omit subsection (6)(b) and the word “and” preceding it.
 - (7) Omit subsection (7).
- 46 Omit section 330 (compensation for National-Socialist persecution).
- 47 (1) Amend section 332 (expenditure and houses of ministers of religion) as follows.
 - (2) Omit subsections (1) and (2).
 - F⁶(3)
 - (4) Omit subsections (3A), (3B) and (4).

Textual Amendments

F⁶ Sch. 6 para. 47(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

- 48 (1) Amend section 336 (temporary residents in the United Kingdom) as follows.
 - (2) In subsection (1) for “Schedule D” substitute “ a charge to which subsection (1A) applies ”.
 - (3) After subsection (1) insert—
 - “(1A) This subsection applies to—
 - (a) the charge under Schedule D,

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- (b) the charge under Part 9 of ITEPA 2003 (pension income) in respect of—
 - (i) income to which section 573, 605, 609, 610, 611, 623 or 629 of that Act applies,
 - (ii) any annual payment to which section 633 of that Act applies which is made by or on behalf of a person who is outside the United Kingdom, or
 - (iii) income to which section 583 of that Act applies if the paying scheme (see subsection (3) of that section) is a pilots' benefit fund (see section 587 of that Act), and
- (c) the charge under Part 10 of ITEPA 2003 (social security income) in respect of benefits to which section 678 of that Act applies (foreign benefits).”

F749

Textual Amendments

F7 Sch. 6 para. 49 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

- 50 (1) Amend section 348 (payments out of profits or gains brought into charge to income tax: deduction of tax) as follows.
 - (2) In subsection (1) for “charged with tax under Case III of Schedule D, not being interest,” substitute “ to which this subsection applies ”.
 - (3) After subsection (1) insert—
 - “(1A) Subsection (1) applies to any annuity or other annual payment, not being interest—
 - (a) which is charged with tax under Case III of Schedule D,
 - (b) which is charged with tax under Part 9 of ITEPA 2003 (pension income) because section 605 of that Act applies to it (retirement annuity contracts: annuities), or
 - (c) which arises from a source in the United Kingdom and is charged with tax under Part 9 of ITEPA 2003 because section 609, 610 or 611 of that Act applies to it (certain employment-related annuities).”
- 51 (1) Amend section 349 (payments not out of profits or gains brought into charge to income tax, and annual interest) as follows.
 - (2) In subsection (1)(a) for “charged with tax under Case III of Schedule D, not being interest” substitute “ to which this paragraph applies ”.
 - (3) After the first sentence of subsection (1) insert—
 - “(1A) Paragraph (a) of subsection (1) applies to any annuity or other annual payment, not being interest—
 - (a) which is charged with tax under Case III of Schedule D,
 - (b) which is charged with tax under Part 9 of ITEPA 2003 (pension income) because section 605 of that Act applies to it, or

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(c) which arises from a source in the United Kingdom and is charged with tax under Part 9 of ITEPA 2003 because section 609, 610 or 611 of that Act applies to it.”

(4) Number the second sentence of subsection (1) as subsection (1B).

(5) In the new subsection (1B) for “This subsection” substitute “ Subsection (1) ”.

52 In section 376(2) (qualifying borrowers and qualifying lenders) for the words from “an office or employment” to “Schedule E” substitute “ an office or employment which would, but for some special exemption or immunity from tax, be a taxable employment under Part 2 of ITEPA 2003 (as defined by section 66(3) of that Act) ”.

F853

Textual Amendments
F8 Sch. 6 para. 53 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F954

Textual Amendments
F9 Sch. 6 para. 54 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

55 (1) Amend section 418 (“distribution” to include certain expenses of close companies) as follows.

(2) In subsection (3)(a)—

- (a) for “to which Chapter II of Part V applies” substitute “to which Part 3 of ITEPA 2003 applies (earnings and benefits etc. treated as employment income) without the exclusion in section 216 of that Act (provisions not applicable to lower-paid employment)”; and
- (b) for “sections 154 to 165” substitute “ Chapters 6 to 10 of Part 3 and section 223 of that Act (cars and vans, loans, shares, other benefits, and payments on account of director’s tax) ”.

(3) In subsection (3)(b) for “section 145” substitute “ Chapter 5 of Part 3 of ITEPA 2003 ”.

(4) In subsection (4) for “Chapter II of Part V” substitute “ Chapters 6 to 10 of Part 3 of ITEPA 2003 ”.

F1056

Textual Amendments
F10 Sch. 6 para. 56 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1157

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Textual Amendments

F11 Sch. 6 para. 57 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1258

Textual Amendments

F12 Sch. 6 para. 58 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 2\(7\)](#)

F1359

Textual Amendments

F13 Sch. 6 para. 59 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 2\(7\)](#)

F1460

Textual Amendments

F14 Sch. 6 para. 60 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 2\(7\)](#)

F1561

Textual Amendments

F15 Sch. 6 para. 61 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 2\(7\)](#)

- 62 (1) Section 577 (business entertaining expenses) is amended as follows.
- (2) Omit subsection (1)(b) and the word “and” preceding it.
- (3) In subsection (3) omit the words from “but where-” to the end of the subsection.

63 Omit section 579(1) (statutory redundancy payments).

64 Omit section 580(3) (provisions supplementary to section 579(1)).

F1665

Textual Amendments

F16 Sch. 6 para. 65 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

F1766

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Textual Amendments

F17 Sch. 6 para. 66 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

- 67 (1) Amend section 588 (training courses for employees) as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies where a person (“the employer”) incurs retraining course expenses within the meaning of section 311 of ITEPA 2003 (exemptions: retraining courses).”
- (3) For paragraphs (a) and (b) of subsection (3) substitute—
- “(a) an employer incurs expenditure in paying or reimbursing retraining course expenses as mentioned in subsection (1) above; and
- (b) by virtue of section 311 of ITEPA 2003, no liability to income tax arises in respect of the payment or reimbursement.”
- (4) Omit subsection (5)(a).
- (5) In subsection (5)(b) for the words from “such a failure” to the end of the paragraph substitute “ a failure to meet a condition of the kind mentioned in section 312(1)(b) (i) or (ii) of ITEPA 2003 ”.
- (6) In subsection (6) for “comply with any provision of section 589(3) and (4)” substitute “ meet a condition in section 312(1)(b)(i) or (ii) of ITEPA 2003 ”.
- 68 Omit section 589 (qualifying courses of training etc.).
- 69 (1) Section 589A (counselling services for employees) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where expenditure (“relevant expenditure”)—
- (a) is incurred in the provision of services to a person (“the employee”) in connection with the cessation of the person’s office or employment, or
- (b) is incurred in the payment or reimbursement of—
- (i) fees for such provision, or
- (ii) travelling expenses incurred in connection with such provision,
- and (in either case) the relevant conditions are met.
- (1A) In subsection (1) above “the relevant conditions” means—
- (a) conditions A to D for the purposes of section 310 of ITEPA 2003 (exemptions: counselling and other outplacement services), and
- (b) in the case of travel expenses, condition E for those purposes.”
- (3) Omit—
- (a) subsections (2) to (6), and
- (b) subsection (10).
- 70 (1) Section 589B (qualifying counselling services etc.) is amended as follows.

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- (2) Omit subsections (1) to (4A).
- (3) In subsection (5) omit “this section or”.
- 71 In section 591D (provisions supplementary to section 591C) omit subsection (6).
- 72 For section 592(7) (exempt approved schemes) substitute—
- “ (7) Any contribution paid under the scheme shall be allowed to be deducted from employment income for the year of assessment in which the contribution is paid.
- A deduction under this subsection may only be made once in respect of the same contribution.”
- 73 In section 594(1) (exempt statutory schemes)—
- (a) for the words “shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in” substitute “ shall be allowed to be deducted from employment income for ”;
- (b) at the end insert— “ A deduction under this section may only be made once in respect of the same contribution. ”
- 74 Omit sections 595 and 596 (payments by employer to retirement benefits scheme).
- 75 Omit sections 596A to 596C (benefits under non-approved retirement benefits schemes).
- 76 Omit section 597 (charge to tax: pensions).
- 77 In section 599A (charge to tax: payments out of surplus funds) omit subsections (5), (6) and (8).
- 78 Omit section 600 (charge to tax: unauthorised payments to or for employees).
- 79 (1) Amend section 606 (default of administrator of retirement benefits scheme) as follows.
- (2) In subsection (9) after “this Chapter” insert “ or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes) ”.
- (3) In subsection (11)(b) after “this Chapter” insert “ or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes) ”.
- 80 (1) Amend section 607 (marine pilots: pilots' benefit fund) as follows.
- (2) In subsection (2)(a) for “597 to 600” substitute “ 598 to 599A ”.
- (3) In subsection (2)(b) for “under section 600” substitute “ in accordance with section 584 of ITEPA 2003 (unauthorised payments) ”.
- (4) For subsection (3)(a) substitute—
- “ (a) in section 592—
- (i) subsections (4) to (6) shall be omitted; and
- (ii) for subsection (7) there shall be substituted—
- “ (7) Any contribution paid under the scheme by a member of the fund shall, in assessing tax under Schedule D, be allowed to be deducted as an expense.”;”

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- (5) In subsection (3)(b) for “sections 597 to 606 (except sections 601 to 603)” substitute “sections 598 to 599A and sections 604 to 606”.
- (6) Omit subsection (3)(b)(iv) and the word “and” preceding it.
- 81 In section 608 (charge to tax on annuities paid out of superannuation funds approved before 6th April 1980) omit subsection (4).
- 82 In section 612(1) (interpretation etc. of Chapter) in the definition of “remuneration”—
- (a) in paragraph (a) for “in respect of which tax is chargeable under Schedule E and which” substitute “which is chargeable to tax as employment income and”; and
- (b) in paragraph (b) for “section 148” substitute “Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)”.
- 83 In section 613 (Parliamentary pension funds) omit subsections (1) to (3).
- 84 In section 614(3) (exemptions and reliefs in respect of income tax from investments etc. of certain pension schemes) for “paragraph (b), (c), (d) or (f) of subsection (2) of section 615” substitute “section 648, 649, 650 or 651 of ITEPA 2003”.
- 85 In section 615 (exemption from tax in respect of certain pensions) omit subsections (1), (2), (4), (5) and (8).
- 86 Omit section 616 (other overseas pensions).
- 87 (1) Amend section 617 (social security benefits and contributions) as follows.
- (2) Omit subsections (1) and (2).
- ^{F18}(3)

Textual Amendments

F18 Sch. 6 para. 87(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

- 88 Omit section 617A (tax credits under Part 1 of Tax Credits Act 2002 (c. 21)).
- 89 In section 624(2) (sponsored superannuation schemes and controlling directors) for “Case I of Schedule E in respect of his emoluments” substitute “section 15 of ITEPA 2003 in respect of his general earnings”.
- 90 (1) Amend section 638 (other restrictions on approval of a personal pension scheme) as follows.
- (2) In subsection (7) for “emoluments” substitute “general earnings”.
- (3) In subsection (11)—
- (a) for “a savings-related share option scheme” substitute “an SAYE option scheme”, and
- (b) for “an employee share ownership plan” substitute “a share incentive plan”.
- (4) In subsection (12)—
- (a) in paragraph (a), for “a savings-related share option scheme” substitute “an SAYE option scheme”, and

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- (b) in paragraph (b)—
 - (i) for “an employee share ownership plan” substitute “ a share incentive plan ”, and
 - (ii) for “employee share ownership plan”, in the second place in which it appears, substitute “ share incentive plan ”.
- (5) In subsection (13)—
 - (a) omit the definition of “employee share ownership plan”, and
 - (b) for the definition of “savings-related share option scheme” substitute—
 - ““SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of ITEPA 2003 (approved SAYE option schemes)), and
 - “share incentive plan” has the same meaning as in the SIP code (see section 488 of that Act (approved share incentive plans)).”
- 91 (1) Section 643 (employer’s contributions and personal pension income etc.) is amended as follows.
 - (2) Omit subsection (1).
 - (3) In subsection (5) omit “shall be assessable to tax under Schedule E (and section 203 shall apply accordingly) and”.
- 92 (1) Amend section 644 (meaning of “relevant earnings”) as follows.
 - (2) In subsection (2)(a) for “emoluments chargeable under Schedule E” substitute “ general earnings ”.
 - (3) In subsection (2)(b) for “emoluments of” substitute “ earnings from ”.
 - (4) In subsection (3) for “emoluments”, in both places where it occurs, substitute “ general earnings ”.
 - (5) In subsection (4)(a) for “Schedule E” substitute “ ITEPA 2003 ”.
 - (6) In subsection (4)(b) for “section 148” substitute “ Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.) ”.
 - (7) In each of the following provisions for “emoluments” substitute “ general earnings ”
 - (a) subsection (5);
 - (b) subsection (6A);
 - (c) subsection (6D)(c);
 - (d) subsection (6E)(d).
- 93 (1) Amend section 645 (earnings from pensionable employment) as follows.
 - (2) In subsection (3)(c) for “section 596(1)(a), (b) or (c)” substitute “ section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme) ”.
 - (3) In subsection (4A)—
 - (a) for “emoluments” substitute “ earnings ”;
 - (b) for “foreign emoluments within the meaning of section 192” substitute “ earnings and amounts treated as earnings to which subsection (4B) applies ”;
 - (c) for “section 596(1)(a), (b) or (c)” substitute “ section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme) ”.

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- (4) After subsection (4A) insert—
- “(4B) This subsection applies to earnings and amounts treated as earnings for a year of assessment if—
- (a) the employee or office-holder is not domiciled in the United Kingdom in that year, and
 - (b) the employment is with a foreign employer.
- (4C) If there is a dispute as to whether the employee or office-holder is not domiciled in the United Kingdom, sections 42 and 43 of ITEPA 2003 (Board to determine dispute as to domicile) apply to the dispute as they apply to a dispute mentioned in section 42(1) of that Act.
- (4D) In this section—
- “earnings and amounts treated as earnings” means earnings and amounts treated as earnings which constitute employment income (see section 7(2) (a) or (b) of ITEPA 2003);
- “foreign employer” has the meaning given by section 721 of ITEPA 2003.”
- 94 In section 646(2) (meaning of “net relevant earnings”) for paragraph (b) substitute—
- “(b) deductions made by virtue of section 232, 336, 343, 344 or 351 of ITEPA 2003 (mileage allowance, expenses, professional membership fees, annual subscriptions, ministers of religion);
 - (ba) travelling or subsistence expenses deducted by virtue of Part 5 of that Act;
 - (bb) deductions made by virtue of section 332(3) of this Act;”.
- 95 (1) Amend section 646A (earnings from associated employments) as follows.
- (2) In subsection (2) for “emoluments” substitute “ general earnings ”.
- (3) In subsection (3) for “emoluments” substitute “ general earnings ”.
- 96 Omit sections 647 to 648A (personal pensions: unauthorised payments, contributions under unapproved arrangements and annuities).
- 97 In section 657(2)(f)(i) (purchased life annuities to which section 656 applies) for “section 596(1)” substitute “ section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme) ”.
- 98 In section 658A(1) (charges and assessments on administrators) after “this Part” insert “ or under section 394(2) of ITEPA 2003 (benefits from non-approved pension schemes) ”.
- 99 (1) Amend section 659B (definition of insurance company) as follows.
- (2) For subsection (9)(a) substitute—
- “(a) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 580 of that Act applies (approved retirement benefits schemes: pensions and annuities);”.
- (3) In subsection (9)(c) after “section 605” insert “ of this Act or section 589 of ITEPA 2003 ”.

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(4) For subsection (9)(d) substitute—

“(d) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 595 of that Act applies (approved personal pension schemes: annuities).”

100 After section 686A insert—

“686B Share incentive plans: distributions in respect of unappropriated shares

- (1) This section applies to income of the trustees of an approved share incentive plan consisting of dividends or other distributions in respect of shares held by them 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.
- (2) Income to which this section applies is income to which section 686 applies only if and when—
 - (a) the period applicable to the shares under the following provisions of this section comes to an end without the shares being awarded to a participant in accordance with the plan, or
 - (b) if earlier, the shares are disposed of by the trustees.
- (3) 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 period applicable to the shares is the period of two years beginning with the date on which the shares were acquired by the trustees.

This is subject to subsection (5).

- (4) 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 period applicable to the shares 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 subsection (5).

- (5) 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 (deduction for contribution to plan trust), the period applicable to the shares is the period of ten years beginning with the date of acquisition.
- (6) For the purposes of determining whether shares are awarded to a participant within the period applicable under the above provisions, 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.
- (7) For the purposes of this section shares which are subject to provision for forfeiture are treated as acquired by the trustees if and when the forfeiture occurs.

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- (8) In relation to shares acquired by the trustees before 11th May 2001 this section has effect with the substitution—
- (a) in subsection (3), of “Subject to subsection (4)” for the words before “the period applicable”, and
 - (b) in subsection (4)(b), of “the shares in question” for “any of the shares in that company”.

686C Interpretation of section 686B

- (1) Section 686B and this section form part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
 - (2) Accordingly, expressions used in section 686B or 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.
 - (3) References in section 686B to shares being awarded to a participant include references to the shares being acquired on behalf of the participant as dividend shares.
 - (4) In section 686B, “readily convertible assets” has the meaning given by sections 701 and 702 of ITEPA 2003, but this is subject to subsection (5).
 - (5) In determining for the purposes of section 686B 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.”
- 101 In section 779(13)(e) (sale and lease-back: limitation on tax reliefs), for “a deduction from emoluments to be assessed under Schedule E made in pursuance of section 198(1)” substitute “ a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses) ”.
- 102 In section 781(4)(d) (assets leased to traders and others), for “a deduction from emoluments to be assessed under Schedule E made in pursuance of section 198(1)” substitute “ a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses) ”.
- 103 In section 794(2)(b) (requirements as to residence) for “income tax chargeable under Schedule E” substitute “ income tax on employment income ”.
- 104 In section 824(4A) (repayment supplement: individuals and others) for “section 203” substitute “ PAYE regulations ”.
- 105 (1) Amend section 828 (orders and regulations made by the Treasury or the Board) as follows.
- (2) In subsection (1), for “subsection (2)” substitute “ subsections (2) and (5) ”.
 - (3) In subsection (3), for “subsection (4)” substitute “ subsections (4) and (5) ”.
 - (4) At the end add—

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- “(5) Nothing in this section applies in relation to any of the following (in relation to which section 717 of ITEPA 2003 applies)—
- (a) any power of the Treasury or the Board to make any order or regulations under ITEPA 2003;
 - (b) any statutory instrument containing any order or regulations made by the Treasury or the Board under that Act.”
- 106 In section 830 (territorial sea and designated areas) omit subsection (5).
- 107 In section 831(3) (interpretation of ICTA) before the entry relating to “the Management Act” insert—
- ““ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003;”.
- 108 (1) Amend section 833 (interpretation of Income Tax Acts) as follows.
- (2) For subsection (3)(a) substitute—
 - “(a) any payment or other benefit charged to tax under Chapter 3 of Part 6 of ITEPA 2003 (payments and other benefits on termination of employment);”.
 - (3) For subsection (4)(a) and (b) substitute—
 - “(a) any income charged to tax under ITEPA 2003 except—
 - (i) payments that meet the conditions in section 623 of that Act (return of surplus employee additional voluntary contributions); and
 - (ii) jobseeker’s allowance (to which Chapter 3 of Part 10 of that Act applies);
 - (b) any income from any property which is attached to or forms part of the general earnings from any employment;”.
 - (4) For paragraphs (a) to (e) of subsection (5) substitute “ income which is earned income by virtue of section 529 ”.
- 109 After Schedule 4 insert—

“SCHEDULE
4AA

Section 85B

SHARE INCENTIVE PLANS: CORPORATION TAX DEDUCTIONS

Introductory

- 1 (1) This Schedule forms part of the SIP code (see section 488 of ITEPA 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in 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 that index.
- (3) References in this Schedule to deductions are to deductions by a company in calculating for the purposes of corporation tax the profits of a trade carried on by it.

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- (4) Sub-paragraph (3) is subject to paragraph 13 (application of provisions to expenses of management of investment companies etc.).

Deduction for providing free or matching shares

- 2 (1) Where, under an approved share incentive plan, shares are awarded to employees as free or matching shares by reason of their employment with a company, a deduction is allowed under this paragraph to that company.
- (2) Any such deduction—
- (a) is of an amount equal to the market value of the shares at the time they are acquired by the trustees, and
 - (b) must be made for the period of account in which the shares are awarded to employees in accordance with the plan.
- (3) Except as provided by sub-paragraph (1), no deduction may be made by the company or any associated company in respect of the provision of those shares.

This is subject to paragraphs 7 and 8 (deductions for costs of setting up, and contributions to running expenses of, plan).

- (4) Where the shares are awarded under a group plan, the market value of the shares at the time they are acquired by the trustees shall for the purposes of this paragraph be taken to be the relevant proportion of the total market value of the shares included in the award.
- (5) For the purposes of sub-paragraph (4) “the relevant proportion” means the proportion that the number of shares in the award awarded to the employees of the company concerned bears to the total number of shares in the award.
- (6) In determining the market value of any shares for the purposes of this paragraph, if shares have been acquired by the trustees on different days it shall be assumed that those acquired on an earlier day are awarded to employees under the plan before those acquired by the trustees on a later day.
- (7) If a deduction is made under this paragraph by a company, no deduction may be made by any other company under this paragraph in respect of the provision of the shares.
- (8) This paragraph has effect subject to paragraph 4 (cases in which no deduction is allowed).

Deduction for additional expenses in providing partnership shares

- 3 (1) Where under an approved share incentive plan—
- (a) partnership shares are awarded to employees by reason of their employment with a company, and
 - (b) the market value of those shares at the time they are acquired by the trustees exceeds the partnership share money paid by the participants to acquire those shares,
- a deduction is allowed under this paragraph to that company.
- (2) Any such deduction—

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- (a) is of an amount equal to the amount of the excess referred to in sub-paragraph (1)(b), and
 - (b) must be made for the period of account in which the shares are awarded to employees in accordance with the plan.
- (3) Except as provided by sub-paragraph (1), no deduction may be made by that company or any associated company in respect of the provision of those shares.

This is subject to paragraphs 7 and 8 (deductions for costs of setting up, and contributions to running expenses of, plan).

- (4) If a deduction is made under this paragraph by a company, no deduction may be made by any other company under this paragraph in respect of the provision of the shares.
- (5) This paragraph has effect subject to paragraph 4 (cases in which no deduction is allowed).

Cases in which no deduction is allowed

- 4 (1) No deduction is allowed under paragraph 2 or 3 (deductions for providing free or matching shares or for additional expenses in providing partnership shares) in the following cases.
- (2) No deduction is allowed in respect of shares awarded to an individual under the plan unless, at the time of the award, any earnings from the required employment are (or would be) chargeable earnings.
- (3) In sub-paragraph (2)—
“chargeable earnings” means general earnings to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 apply, and
the “required employment” means the employment by reference to which the individual is eligible to participate in the award.
- (4) In sub-paragraph (3), the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of that Act has the same meaning as it has in the employment income Parts of ITEPA 2003 (see sections 14(3) and 20(3) of that Act).
- (5) No deduction is allowed in respect of shares that are liable to depreciate substantially in value for reasons that do not apply generally to shares in the company.
- (6) No deduction is allowed if a deduction has been made—
(a) by the company, or
(b) by an associated company of the company,
in respect of the provision of the same shares for this or another trust.
- (7) Sub-paragraph (6) applies whatever the nature or purpose of the other trust and whatever the basis on which the deduction was made.
- (8) For the purposes of determining whether the same shares have been provided to more than one trust, if shares have been acquired by the trustees of the

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plan trust on different days it shall be assumed that those acquired on an earlier day are awarded under the plan before those acquired by the trustees on a later day.

- (9) No deduction is allowed in respect of the award of shares acquired by the trustees by virtue of a payment in respect of which a deduction has been made under paragraph 9 (deduction for contribution to plan trust) or 10(3) (further deduction where deduction under paragraph 9 withdrawn).

No deduction for expenses in providing dividend shares

- 5 (1) No deduction is allowed for expenses in providing shares that are acquired on behalf of individuals under an approved share incentive plan as dividend shares.
- (2) This is subject to paragraph 8 (deductions for contributions to running expenses of plan).

Treatment of forfeited shares

- 6 (1) This paragraph applies if any of a participant's plan shares are forfeited.
- (2) The shares are treated for the purposes of this Schedule as acquired by the trustees—
- (a) when the forfeiture occurs, and
 - (b) for no consideration.
- (3) No deduction is allowed under paragraph 2 or 3 (deductions for providing free or matching shares or for additional expenses in providing partnership shares) in respect of any subsequent award of those shares under the plan.

Deduction for costs of setting up the plan

- 7 (1) A deduction is allowed under this paragraph for expenses incurred by a company in establishing a share incentive plan which is approved by [^{F19}an officer of Revenue and Customs] .
- (2) No deduction may be made under this paragraph if—
- (a) any employee acquires rights under the plan, or
 - (b) the trustees acquire any shares for the purposes of the plan,
- before [^{F19}an officer of Revenue and Customs] approve the plan.
- (3) If Inland Revenue approval of the plan is given more than nine months after the end of the period of account in which the expenses are incurred, the expenses are treated for the purposes of this paragraph as incurred in the period in which the approval is given.
- (4) No other deduction is allowed in respect of expenses for which a deduction is allowed under this paragraph.

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Deductions for contributions to running expenses of plan

- 8 (1) Nothing in this Schedule affects any deduction for expenses incurred by a company in contributing to the expenses of the trustees in operating an approved share incentive plan.
- (2) For this purpose the expenses of the trustees in operating the plan—
- (a) do not include expenses in acquiring shares for the purposes of the trust, other than incidental acquisition costs, but
 - (b) do include the payment of interest on money borrowed by them for that purpose.
- (3) In sub-paragraph (2)(a) “incidental acquisition costs” means any fees, commission, stamp duty and similar incidental costs attributable to the acquisition of the shares.

Deduction for contribution to plan trust

- 9 (1) A deduction is allowed to a company under this paragraph where—
- (a) on or after 6th April 2003, that company makes a payment to the trustees of an approved share incentive plan in order to enable them to acquire shares in that company or a company which controls it,
 - (b) the payment is applied by the trustees to acquire such shares,
 - (c) the shares are not acquired from a company, and
 - (d) the condition in sub-paragraph (2) is met in relation to the company in which the shares are acquired.
- (2) The condition in this sub-paragraph is that, at the end of the period of 12 months beginning with the date of the acquisition, the trustees hold shares in the company for the plan trust that—
- (a) constitute not less than 10 per cent of the ordinary share capital of the company, and
 - (b) carry rights to not less than 10 per cent of—
 - (i) any profits available for distribution to shareholders of the company,
 - (ii) any assets of that company available for distribution to its shareholders in the event of a winding-up.
- (3) For the purposes of sub-paragraph (2), shares that have been appropriated to, and acquired on behalf of, an individual under the plan shall continue to be treated as held by the trustees of the plan trust for the beneficiaries of that trust until such time as they cease to be subject to the plan (within the meaning of the SIP code).
- (4) A deduction allowed under this paragraph—
- (a) is of an amount equal to the amount of the payment referred to in sub-paragraph (1), and
 - (b) must be made for the period of account in which the condition in sub-paragraph (2) is met.
- (5) No other deduction is allowed for any amount in respect of which a deduction has been made under this paragraph (except as specified in paragraph 10).

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Withdrawal of deduction under paragraph 9

- 10 (1) [F19 An officer of Revenue and Customs] may by notice direct that the benefit of a deduction made under paragraph 9 is withdrawn where—
- (a) fewer than 30 per cent of the shares acquired by virtue of the payment in respect of which the deduction is made have been awarded under the plan before the end of the period of 5 years beginning with the date of acquisition, or
 - (b) not all the shares acquired by virtue of that payment have been so awarded before the end of the period of 10 years beginning with that date.
- (2) The effect of a direction under sub-paragraph (1)(a) or (b) is that the amount of the deduction is treated as a trading receipt of the company for the period of account in which the direction is given.
- (3) However, where—
- (a) [F19 an officer of Revenue and Customs] give a direction under sub-paragraph (1)(a) or (b) in respect of any deduction, and
 - (b) at any time after the giving of the direction, all the shares acquired by virtue of the payment in respect of which the deduction was made are awarded under the plan,
- a further deduction is allowed under this sub-paragraph to the company which made the payment.
- (4) A deduction under sub-paragraph (3)—
- (a) is of an amount equal to the amount of the payment referred to in that sub-paragraph, and
 - (b) must be made for the period of account in which sub-paragraph (3) (b) is first satisfied.
- (5) No other deduction is allowed in respect of any amount for which a deduction has been made under sub-paragraph (3).
- (6) Sub-paragraph (8) applies where—
- (a) a deduction is made under paragraph 9 (deduction for contribution to plan trust) or sub-paragraph (3) in respect of a payment for the acquisition of shares, but
 - (b) shares are awarded under the plan to an individual at a time when the earnings from the required employment are not (or would not be if there were any) chargeable earnings.
- (7) In sub-paragraph (6) “required employment” and “chargeable earnings”, in relation to an individual, have the same meanings as they have in paragraph 4(2) (cases in which no deduction is allowed).
- (8) An amount equal to the appropriate proportion of the deduction is treated as a trading receipt of the company for the period of account in which the shares are so awarded.
- (9) For the purposes of sub-paragraph (8), the appropriate proportion of the deduction is the proportion which the number of shares awarded to the

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individual bears to the total number of shares acquired by virtue of the payment.

- (10) For the purposes of this paragraph, where shares are acquired by the trustees on different days, it shall be assumed that those acquired on an earlier day are awarded to employees under the plan before those acquired by the trustees on a later day.

Withdrawal of deductions on withdrawal of approval

- 11 (1) If approval of a share incentive plan is withdrawn [^{F19}an officer of Revenue and Customs] may by notice to a company direct that the benefit of—
- (a) any deductions under paragraph 2 (deduction for providing free or matching shares),
 - (b) any deductions under paragraph 3 (deduction for additional expenses in providing partnership shares),
 - (c) any deductions under paragraph 9 (deduction for contribution to plan trust) (in so far as not already withdrawn under paragraph 10), or
 - (d) any deductions under paragraph 10(3) (further deduction where deduction under paragraph 9 withdrawn),
- in relation to the plan is also withdrawn.
- (2) The effect of the direction is that the aggregate amount of the deductions is treated as a trading receipt of that company for the period of account in which [^{F19}an officer of Revenue and Customs] give notice of the withdrawal of approval.

Termination of plan: shares acquired as mentioned in paragraph 9 but not yet awarded

- 12 (1) This paragraph applies where the company has issued a plan termination notice under paragraph 89 of Schedule 2 to ITEPA 2003 (termination of plan).
- (2) In a case where—
- (a) by virtue of a payment made to the trustees by the company, the trustees acquire shares in the company, or a company which controls it,
 - (b) a deduction under paragraph 9 (deduction for contribution to plan trust) has been made in respect of that payment (and has not been withdrawn under paragraph 10), and
 - (c) not all the shares acquired by virtue of the payment have been awarded under the plan before issue of the plan termination notice,
- an amount equal to the appropriate proportion of the deduction is treated as a trading receipt of the company for the period of account in which the plan termination notice is given.
- (3) For the purposes of sub-paragraph (2), the appropriate proportion of the deduction is the proportion which the number of shares acquired by virtue of the payment and not awarded as specified in sub-paragraph (2)(c) bears to the total number of shares so acquired.

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Application of provisions to expenses of management of investment companies etc.

- 13 (1) The provisions of this Schedule apply in relation to—
- (a) investment companies, and
 - (b) companies to which section 75 (expenses of management: investment companies) applies by virtue of section 76 (expenses of management: insurance companies),
- in accordance with the following provisions.
- (2) The provisions of this Schedule which allow a deduction in calculating the profits of a trade apply to treat amounts as disbursed as expenses of management.
- (3) Paragraph 11(2) applies as if the reference to a trading receipt for the period of account in which [^{F19}an officer of Revenue and Customs] give notice of the withdrawal of approval were a reference to profits or gains chargeable to tax under Case VI of Schedule D arising when [^{F19}an officer of Revenue and Customs] give notice of the withdrawal.”

Textual Amendments

F19 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)

- 110 Omit Schedules 6 and 6A (taxation of directors and others: cars and vans).
- 111 Omit Schedules 7 and 7A (taxation of benefit of loans).
- 112 (1) Amend Schedule 9 (approved share option schemes and profit sharing schemes) as follows.
- (2) Omit Parts 1, 2 and 6 except so far as relating to profit sharing schemes.
 - (3) Omit Parts 3 and 4.
- 113 (1) Amend Schedule 10 (further provisions relating to profit sharing schemes) as follows.
- (2) In paragraphs 3(1) and 6(4) for “charging an individual to income tax under Schedule E” substitute “under which an amount counts as employment income of an individual”.
 - (3) In paragraph 7—
 - (a) in sub-paragraph (1), for “a participant in the scheme is chargeable to income tax under Schedule E” substitute “an amount counts as employment income of the participant”,
 - (b) in sub-paragraph (6), for the words from “section 203” to “Schedule E” substitute “section 684 of ITEPA 2003 (PAYE regulations) and PAYE regulations as PAYE income payable to the recipient”, and
 - (c) in sub-paragraph (7)(b)—
 - (i) omit second “to”, and
 - (ii) for “the participant is chargeable” substitute “is charged on the participant”.

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- 114 Omit Schedule 11 (payments and other benefits in connection with termination of employment etc.).
- 115 Omit Schedule 11A (removal benefits and expenses).
- 116 Omit Schedule 12 (foreign earnings).
- 117 Omit Schedule 12AA (mileage allowances).
- 118 Omit Schedule 12A (ordinary commuting and private travel).
- 119 In Schedule 14 (modification of section 266 in certain cases), in paragraph 5 for “section 595” substitute “ section 386 of ITEPA 2003 (payments to non-approved retirement benefits schemes) ”.
- F20 120

Textual Amendments

F20 Sch. 6 para. 120 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 3](#) (with [Sch. 2](#))

- 121 (1) Amend paragraph 5B of Schedule 18 (group relief: equity holders and profits available for distribution) as follows.
 - (2) In sub-paragraph (4)(d) for “approved under Schedule 9” substitute “ which was approved ”.
 - (3) After sub-paragraph (4) insert—
 - “(4A) In sub-paragraph (4)(d) above—
 - “share option scheme” means—
 - (a) an SAYE option scheme within the meaning of the SAYE code (see section 516(4) of ITEPA 2003 (approved SAYE option schemes)),
or
 - (b) a CSOP scheme within the meaning of the CSOP code (see section 521(4) of that Act (approved CSOP schemes)); and

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)—

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- (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”.
 - (3) In subsection (1A) after “the principal Act” insert “or under section 394(2) of ITEPA 2003”.
- 126 (1) Amend section 15 (return of employee’s emoluments etc.) as follows.
- (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—

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““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.”

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

129 In section 46B(5) (questions as to the application of provisions concerning the territorial sea to be determined by Special Commissioners) at the end of paragraph (b) insert—

“, or

- (c) section 41 of ITEPA 2003.”.

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)—

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- (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.
- (2) In subsection (2)(a) for “or the principal Act” substitute “ , the principal Act or ITEPA 2003 ”.
- (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).”
- 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—

“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.”

- (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;

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- (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—

	“	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. 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 ”.
142		In paragraph 3 of Schedule 3 (rules for assigning proceedings to General Commissioners) for “regulations under section 203 of the principal Act” substitute “ PAYE regulations ”.
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 ”.
		<i>Finance Act 1973 (c. 51)</i>
144		Schedule 15 to the Finance Act 1973 (territorial extension of charge to tax — supplementary provisions) is amended as follows.
145		In paragraph 2(b) for “emoluments” substitute “ 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& ”.
146		In paragraph 5 for “Schedule E” substitute “ the Income Tax (Earnings and Pensions) Act 2003 ”.

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Finance Act 1974 (c. 30)

- 147 In section 24 of the Finance Act 1974 (returns of persons treated as employees) for “any emoluments paid to him, whether or not tax is chargeable on them” substitute “ any general earnings paid to him ”.

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 ”.

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

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- (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—
- (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.

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- (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 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.

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- (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 ”.
- 161 (1) Amend section 76 (non-approved retirement benefits schemes) as follows.
- (2) In subsection (6C)—
- (a) for “paragraphs (a), (b) or (c) of section 596(1) of the Taxes Act 1988” substitute “ section 387(2) of the Income Tax (Earnings and Pensions) Act 2003 ”;
 - (b) for “emoluments” in the first place where it occurs substitute “ earnings ”; and
 - (c) for “foreign emoluments within the meaning of section 192” substitute “ earnings and amounts treated as earnings to which subsection (6D) applies ”.
- (3) After subsection (6C) insert—

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“(6D) This subsection applies to earnings and amounts treated as earnings for a year of assessment if—

- (a) the employer or office-holder is not domiciled in the United Kingdom in that year, and
- (b) the employment is with a foreign employer.

(6E) If there is a dispute as to whether the employee or office-holder is not domiciled in the United Kingdom, sections 42 and 43 of the Income Tax (Earnings and Pensions) Act 2003 (Board to determine dispute as to domicile) apply to the dispute as they apply to a dispute mentioned in section 42(1) of that Act.”

(4) In subsection (7)—

(a) after “this section” insert—

““earnings and amounts treated as earnings” means earnings and amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of the Income Tax (Earnings and Pensions) Act 2003),

“foreign employer” has the meaning given by section 721 of that Act.”; and

(b) for “section 596(1)(a), (b) or (c) of the Taxes Act 1988” substitute “section 387(2) of the Income Tax (Earnings and Pensions) Act 2003”.

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”.

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(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.

166 (1) Amend section 25(2) (donations to charity by individuals) as follows.

(2) In paragraph (d) for “section 202(2) of the Taxes Act 1988” substitute “ section 713(3) of the Income Tax (Earnings and Pensions) Act 2003 ”.

^{F21}(3)

Textual Amendments

F21 Sch. 6 para. 166(3) repealed (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(12\)](#)

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 ”.

Status: Point in time view as at 19/07/2005.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 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”),”.
- (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.

Status: Point in time view as at 19/07/2005.

Changes to legislation: *Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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).

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 ”.

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Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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;”
- ““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

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Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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 ”;
 - (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 [^{F19}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

F19 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 ”.

Status: Point in time view as at 19/07/2005.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.
- 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”),”.

Status: Point in time view as at 19/07/2005.

Changes to legislation: *Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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.

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 ”.

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- (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 ”.
- (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;”

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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 ”.
- 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 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 [^{F19}an officer of Revenue and Customs] under section 203(2) or” substitute “ PAYE regulations or regulations made under section ”; and

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- (e) in paragraph 7B(1) for “regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE)” substitute “PAYE regulations”.

Textual Amendments

F19 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”

Taxation of Chargeable Gains Act 1992 (c. 12)

- 207 The Taxation of Chargeable Gains Act 1992 is amended as follows.
- 208 In section 9(2) (residence, including temporary residence)—
- (a) for “Section 207 of the Taxes Act” substitute “Sections 42 and 43 of ITEPA 2003”;
- (b) for “it applies” substitute “they apply”; and
- (c) for “that section” substitute “section 42 of that Act”.
- 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.

Status: Point in time view as at 19/07/2005.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(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)—

- (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;

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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
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.”

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- 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),
 - (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.

Status: Point in time view as at 19/07/2005.

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- (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
 - (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—

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“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.

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.

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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.
- (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

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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.

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.

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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)).
- (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

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- (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)).
- (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

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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
 - (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.

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- (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.

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)”.

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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.
- 226 (1) Amend section 128 (limit on income chargeable on non-residents: income tax) as follows.
- (2) For subsection (3)(c) substitute—
- “(cc) it is chargeable to tax under Part 9 of ITEPA 2003 (pension income) because section 577 or 605 of that Act applies to it (UK social security pensions and retirement annuity contracts);
- (cd) it arises from a source in the United Kingdom and is chargeable to tax under Part 9 of ITEPA 2003 because section 609, 610 or 611 of that Act applies to it (certain employment-related annuities);
- (ce) it is a taxable benefit listed in Table A in section 660 of ITEPA 2003, other than income support or jobseeker’s allowance, chargeable to tax under Part 10 of that Act (social security income);”.
- (3) In subsection (3)(d) for “paragraphs (a) to (c)” substitute “ paragraphs (a) to (ce) ”.
- (4) For subsection (11) substitute—
- “(11) In this section—
- “investment transaction” has the same meaning as in section 127 above;
- “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003.”
- 227 In section 137(7) (part-time workers: miscellaneous provisions) for “Subsections (2) to” substitute “ Subsection ”.

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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)”.

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”.

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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 ”,
 - (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;”.
- 244 (1) Amend Schedule 12 (provision of services through an intermediary) as follows.

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- (2) In paragraph 17—
- (a) for “deemed Schedule E payment”, in each place, substitute “ deemed employment payment ”; and
 - (b) after sub-paragraph (3) insert—

“(4) In this paragraph and paragraph 18 expressions that are also used in Chapter 8 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 have the same meaning as in that Chapter.”
- (3) In paragraph 18—
- (a) in sub-paragraph (1) for “deemed Schedule E payment” substitute “ deemed employment payment ”; and
 - (b) in sub-paragraph (3)(a) for “Schedule E” substitute “ the employment income Parts of the Income Tax (Earnings and Pensions) Act 2003 ”.

F22 245

Textual Amendments

F22 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)—
- (a) for “emoluments” substitute “ earnings ”; and

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- (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—

“ITEPA 2003

The Income Tax (Earnings and Pensions) Act 2003”.

- 256 In Part 2 of Schedule 1 (defined expressions used in the Act), in the entry relating to “United Kingdom”, after “section 830 of ICTA” insert “ and section 41 of ITEPA 2003 ”.

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.
- (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

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- (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.”
- 258 (1) In Schedule 22 (remediation of contaminated land), amend paragraph 5 as follows.
 - (2) For sub-paragraph (1)(a) substitute—
 - “(a) the earnings paid by the company to directors or employees of the company;”.
 - (3) After sub-paragraph (1) insert—
 - “(1A) In sub-paragraph (1)(a) “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).”

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 ”.
 - (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 ”.

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- 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.
- (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 ”.

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- (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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