

Status: Point in time view as at 17/07/2012.

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SCHEDULES

SCHEDULE 22

EMPLOYEE SECURITIES AND OPTIONS

Consequential amendments

- 16 (1) In section 3(1) (structure of employment income Parts), in the entry relating to Part 7, for “share-related income and exemptions” substitute “ income and exemptions relating to securities and securities options acquired in connection with an employment ”.
- (2) Sub-paragraph (1) has effect on and after 16th April 2003.
- 17 (1) In section 7(6)(b) (employment income), for “(share-related income and exemptions)” substitute “ (income and exemptions relating to securities and securities options) ”.
- (2) Sub-paragraph (1) has effect on and after 16th April 2003.
- 18 (1) In section 19(2) (year in which earnings treated as received), omit the entries relating to Chapters 8 and 9 of Part 3.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
 - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 19 (1) In section 32(2) (receipt of non-money earnings), omit the entries relating to Chapters 8 and 9 of Part 3.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
 - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 20 (1) In section 63(1) (the benefits code), omit the entries relating to Chapters 8 and 9 of Part 3.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
 - (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 21 (1) In section 64 (relationship between earnings and benefits code), omit subsections (5) and (6).

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- (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 22 (1) Omit Chapter 8 of Part 3.
- (2) Sub-paragraph (1) has effect in relation to shares, and interests in shares, acquired on or after 16th April 2003.
- 23 (1) Omit Chapter 9 of Part 3.
- (2) Sub-paragraph (1) has effect in relation to shares, and interests in shares, disposed of on or after 16th April 2003.
- 24 (1) Section 216 (provisions not applicable to lower-paid employments) is amended as follows.
- (2) In subsection (4), omit the entries relating to Chapters 8 and 9 of Part 3.
- (3) In subsection (6), omit the entries relating to section 195(3) and section 199(4).
- (4) Sub-paragraphs (1) to (3) have effect—
- (a) so far as relating to Chapter 8 of Part 3, in accordance with the provision made for the repeal of that Chapter, and
- (b) so far as relating to Chapter 9 of Part 3, in accordance with the provision made for the repeal of that Chapter.
- 25 (1) Section 227(4) (employment income: exemptions) is amended as follows.
- (2) For paragraphs (a) and (b) substitute—
- “(a) section 425 (restricted securities: no charge in respect of acquisition in certain circumstances),
- (b) section 475 (no charge in respect of acquisition of securities option),”.
- (3) Omit paragraphs (d), (f) and (h).
- (4) This paragraph has effect—
- (a) so far as relating to section 425, in accordance with the provision made for the substitution of Chapter 2 of Part 7, and
- (b) otherwise, in accordance with the provision made for the substitution of Chapter 5 of Part 7.
- 26 (1) Omit section 491 (no charge under Chapter 8 of Part 3 in respect of acquisition of approved share incentive plan shares).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 27 (1) Omit section 494 (no charge on removal of restrictions applying to approved share incentive plan shares).
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to section 427, in accordance with the provision made for the substitution of Chapter 2 of Part 7, and
- (b) so far as relating to section 449, in accordance with the provision made for the substitution of Chapter 4 of Part 7.

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- 28 (1) Omit section 495 (approved share incentive plan shares: value of shares in dependent subsidiary).
- (2) Sub-paragraph (1) has effect on 16th April 2003.
- 29 (1) Omit section 518 (no charge in respect of acquisition of approved SAYE share scheme option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 30 (1) In section 519 (no charge in respect of exercise of approved SAYE share scheme option), omit subsection (4).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 31 (1) Omit section 520 (approved SAYE option schemes: no charge in respect of post-acquisition benefits).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 32 (1) Omit section 523 (no charge in respect of acquisition of approved CSOP scheme option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 33 (1) In section 524 (no charge in respect of exercise of approved CSOP scheme option), omit subsection (4).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 34 (1) Omit section 525 (approved CSOP schemes: no charge in respect of post-acquisition benefits).
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 35 (1) In section 526(4) (charge where approved CSOP scheme option granted at a discount: deductions of charge from amount chargeable under other provisions), for the words from the beginning to “deductions” substitute “ Section 480(4) (gain realised on acquisition of securities pursuant to option etc) provides for a deduction ”.
- (2) Sub-paragraph (1) has effect—
- (a) so far as relating to section 194, in accordance with the provision made for the repeal of Chapter 8 of Part 3, and
- (b) otherwise, on and after the day appointed under paragraph 3(2).
- 36 (1) Omit section 528 (enterprise management incentives: no charge in respect of acquisition of qualifying option).
- (2) Sub-paragraph (1) has effect on the day appointed under paragraph 3(2).
- 37 (1) In section 531(4) (enterprise management incentives: limitation of charge on exercise of qualifying option to acquire shares below market value), for the words after “which” substitute “ under section 478 (amount of charge under section 476) is to be regarded as the taxable amount for the purposes of section 476 in respect of the acquisition of the shares pursuant to the option. ”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).

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- 38 (1) In section 532(5) (enterprise management incentives: modified tax consequences following disqualifying events), for the words after “which” substitute “ under section 478 (amount of charge under section 476) is to be regarded as the taxable amount for the purposes of section 476 in respect of the acquisition of the shares pursuant to the option. ”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 39 (1) In section 538 (share conversions excluded for purposes of section 536), for subsection (4) substitute—
- “ (4) In this section—
- “associated company” has the same meaning as, by virtue of section 416 of ICTA, it has for the purposes of Part 11 of ICTA,
- “director” has the same meaning as in the benefits code (see section 67) but also includes a person who is to be or has been a director,
- “employee” includes a person who is to be or has been an employee, and
- “employee-controlled” has the same meaning as in Chapters 1 to 4 of this Part (see section 421H(1)).”.
- (2) Sub-paragraph (1) has effect on and after the day appointed under paragraph 3(2).
- 40 (1) In section 540(1) (enterprise management incentives: notional loan provisions not to apply in relation to acquisition of shares by exercise of qualifying option), for “Chapter 8 of Part 3” substitute “ Chapter 3C of this Part ”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the repeal of Chapter 8 of Part 3.
- 41 (1) In section 541 (enterprise management incentives: effect on other income tax charges), for subsections (1) and (2) substitute—
- “(1) Nothing in the EMI code affects—
- (a) the operation of Chapters 2 to 4 of this Part in relation to shares acquired under a qualifying option, or
- (b) the operation of Chapter 5 of this Part otherwise than in relation to the acquisition of shares under a qualifying option.
- (2) But in calculating the taxable amount for the purposes of section 426 (post-acquisition charge on restricted securities) in respect of shares acquired under a qualifying option, the amount of relief on the exercise of the option is to be regarded as a deductible amount for the purposes of section 428 (amount of charge).”.
- (2) So far as relating to—
- (a) Chapter 9 of Part 3 (which is repealed and replaced by provisions inserted in Part 7),
- (b) any of the new Chapters substituted or inserted in Part 7 by this Schedule, and
- (c) each of the Chapters of that Part as originally enacted for which new Chapters are substituted by this Schedule,
- sub-paragraph (1) has effect in accordance with the provision made for the taking effect of the repeal, substitution or insertion.

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- 42 (1) Part 2 of Schedule 1 (index of defined expressions) is amended as follows.
- (2) Omit the entries relating to—
- “acquisition (in Chapter 8 of Part 3)”,
 - “the acquisition (in Chapter 8 of Part 3)”,
 - “acquisition (in Chapter 9 of Part 3)”,
 - “the acquisition (in Chapter 4 of Part 7)”,
 - “as a director or employee, in relation to the acquisition of an interest in shares (in Chapter 2 of Part 7)”,
 - “as a director or employee, in relation to the acquisition of shares or an interest in shares (in Chapter 3 of Part 7)”,
 - “as a director or employee, in relation to the acquisition of shares or an interest in shares (in Chapter 4 of Part 7)”,
 - “assign, in relation to a share option (in Chapter 5 of Part 7)”,
 - “associated company (in Chapter 4 of Part 7)”,
 - “company (in Chapter 5 of Part 7)”,
 - “the Contributions and Benefits Act (in Chapter 5 of Part 7)”,
 - “convertible, in relation to shares (in Chapter 3 of Part 7)”,
 - “dependent subsidiary (in Chapter 4 of Part 7)”,
 - “director (in Chapter 2 of Part 7)”,
 - “director (in Chapter 3 of Part 7)”,
 - “director (in Chapter 4 of Part 7)”,
 - “director (in Chapter 5 of Part 7)”,
 - “employee (in Chapter 8 of Part 3)”,
 - “employee (in Chapter 9 of Part 3)”,
 - “employee (in Chapter 2 of Part 7)”,
 - “the employee (in Chapter 2 of Part 7)”,
 - “employee (in Chapter 3 of Part 7)”,
 - “the employee (in Chapter 3 of Part 7)”,
 - “employee (in Chapter 4 of Part 7)”,
 - “the employee (in Chapter 4 of Part 7)”,
 - “employee (in Chapter 5 of Part 7)”,
 - “the employee (in Chapter 5 of Part 7)”,
 - “employee-controlled (in relation to a company) (in Chapter 4 of Part 7)”,
 - “the employee’s interest (in Chapter 2 of Part 7)”,
 - “the employer company (in Chapter 2 of Part 7)”,
 - “the employer company (in Chapter 3 of Part 7)”,
 - “the employer company (in Chapter 4 of Part 7)”,
 - “employment-related shares (in Chapter 9 of Part 3)”,
 - “the employment-related shares (in Chapter 8 of Part 3)”,
 - “held by outside shareholders (in Chapter 4 of Part 7)”,
 - “interest in shares (in Chapter 8 of Part 3)”,
 - “interest in shares (in Chapter 9 of Part 3)”,
 - “interest in shares (in Chapter 4 of Part 7)”,
 - “market value (in Chapter 8 of Part 3)”,
 - “market value (in Chapter 9 of Part 3)”,

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“market value (in Chapter 2 of Part 7)”,
 “only conditional (interest in shares) (in Chapter 2 of Part 7)”,
 “payment for the employment-related shares (in Chapter 8 of Part 3)”,
 “release, in relation to a share option (in Chapter 5 of Part 7)”,
 “secondary Class 1 contributions (in Chapter 5 of Part 7)”,
 “share option (in Chapter 5 of Part 7)”,
 “the share option (in Chapter 5 of Part 7)”,
 “shares (in Chapter 8 of Part 3)”,
 “shares (in Chapter 9 of Part 3)”,
 “shares (in Chapter 2 of Part 7)”,
 “the shares (in Chapter 2 of Part 7)”,
 “shares (in Chapter 3 of Part 7)”,
 “the shares (in Chapter 3 of Part 7)”,
 “shares (in Chapter 4 of Part 7)”,
 “the shares (in Chapter 4 of Part 7)”,
 “shares (in Chapter 5 of Part 7)”,
 “terms (in Chapter 2 of Part 7)”,
 “terms (in Chapter 3 of Part 7)”, and
 “value (in relation to shares) (in Chapter 4 of Part 7)”.

(3) At the appropriate places insert—

“the acquisition (in Chapters 1 to 4 of Part 7) section 421B(8) (see also section 446Q(4))”,

“the acquisition (in Chapter 5 of Part 7) section 471(5)”,

“associated company (in section 421H(1) and section 421H(2)),
 Chapters 2 to 4 of Part 7)

“associated person (in Chapters 1 to 4 of Part section 421C”,
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“associated person (in Chapter 5 of Part 7) section 472”,

“chargeable event (in Chapter 3B of Part 7) section 446P(5)”,

“the Contributions and Benefits Act (in section 484(7)”,
 Chapter 5 of Part 7)

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“consideration (in Chapters 2 to 5 of Part 7)	sections 421(2) and 421A”,
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“consideration given for the acquisition of employment-related securities (in Chapters 2 to 3A of Part 7)	section 421I”,
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“convertible securities (in Chapters 2 to 3A of Part 7)	section 436”,
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“the employee (in Chapters 1 to 4 of Part 7)	section 421B(8)”,
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“the employee (in Chapter 5 of Part 7)	section 471(5)”,
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“employee-controlled (in Chapters 2 to 4 of Part 7)	section 421H(1)”,
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“the employer (in Chapters 1 to 4 of Part 7)	section 421B(8)”,
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“the employer (in Chapter 5 of Part 7)	section 471(5)”,
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“the employment (in Chapters 1 to 4 of Part 7)	section 421B(8)”,
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“the employment (in Chapter 5 of Part 7)	section 471(5)”,
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“employment-related securities (in Chapters 1 to 5 of Part 7)	section 421B(8) (see also section 484(4))”,
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“employment-related securities option (in Chapter 5 of Part 7)	section 471(5)”,
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“interest, in relation to securities (or shares) (in Chapters 1 to 5 of Part 7)	section 420(8)”,
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“market value (in Chapters 1 to 5 of Part 7) section 421(1)”,

“non-commercial increase (in Chapter 3B of Part 7) section 446K(4)”,

“non-commercial reduction (in Chapter 3B of Part 7) section 446K(4)”,

“the notional loan (in Chapter 3C of Part 7) section 446S(1)”,

“recognised stock exchange section 841 of ICTA”,

“relevant period (in Chapter 3B of Part 7) section 446O”,

“restricted securities and restricted interest in securities (in Chapters 2, 3A and 3B of Part 7) sections 423 and 424”,

“restriction (in Chapters 2, 3A and 3B of Part 7) section 432(8)”,

“secondary Class 1 contributions (in Chapter 5 of Part 7) section 484(7)”,

“securities (in Chapters 1 to 5 of Part 7) section 420”,

“securities option (in Chapters 1 to 5 of Part 7) section 420(8)”,

“shares (in Chapters 1 to 5 of Part 7) section 420(8)”,

“valuation date (in Chapter 3B of Part 7) section 446O”, and

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“variation, in relation to a restriction (in section 427(4)”
Chapter 2 of Part 7)

- (4) So far as relating to—
- (a) Chapters 8 and 9 of Part 3 (which are repealed and replaced by provisions inserted in Part 7),
 - (b) each of the new Chapters substituted or inserted in Part 7, and
 - (c) each of the Chapters of that Part as originally enacted for which new provisions are substituted,
- sub-paragraphs (1) to (3) have effect in accordance with the provision made for the taking effect of the repeal, substitution or insertion.
- 43 (1) In paragraph 35 of Schedule 2 (approved share incentive plans: maximum annual award), for sub-paragraphs (3) and (4) substitute—
- “(3) For the purposes of this paragraph the market value of restricted shares is to be determined as if they were not.
 - (4) Shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares.”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 2 of Part 7.
- 44 (1) In paragraph 42(3) of Schedule 3 (approved SAYE option schemes: withdrawal of approval), for paragraph (b) substitute—
- “(b) section 421G(b) (exemption from Chapters 2 to 4 of Part 7),”.
- (2) Sub-paragraph (1) has effect in accordance with the provision made for the substitution of Chapter 4 of Part 7.
- 45 (1) Schedule 5 (enterprise management incentives) is amended as follows.
- (2) In paragraph 5, for sub-paragraphs (7) and (8) substitute—
- “(7) For the purposes of this paragraph the market value of restricted shares is to be determined as if they were not.
 - (8) Shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares.”.
- (3) In paragraph 37, for sub-paragraphs (4) to (6) substitute—
- “(4) Where the shares that may be acquired by the employee are restricted shares, the agreement must contain details of the restrictions.
 - (5) For the purposes of sub-paragraph (4)—

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- (a) shares are “restricted shares” if there is any contract, agreement, arrangement or condition which makes provision to which any of subsections (2) to (4) of section 423 (restricted securities) would apply if the references in those subsections to the employment-related securities were to the shares, and
 - (b) “restrictions” means that provision.”.
- (4) Sub-paragraphs (1) to (3) have effect in accordance with the provision made for the substitution of Chapter 2 of Part 7.
- 46 (1) Schedule 7 (transitionals and savings) is amended as follows.
- (2) Omit paragraphs 30 and 31.
 - (3) In the heading of Part 6, for “share-related” substitute “ related to securities ”.
 - (4) In the heading of Part 7, for “share-related income” substitute “ income related to securities ”.
 - (5) Before paragraph 44 insert—

“Pre-6th April 2003 acquisitions

- 43A(1) This paragraph relates to the operation of section 421E (exclusions from Chapters 2 to 4 of Part 7: residence) in relation to an acquisition made before 6th April 2003.
- (2) Section 421E(1) has effect with the substitution of “ the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.
 - (3) Section 421E(2) has effect with the substitution of “ the emoluments of the employment did not fall to be charged to income tax under Schedule E ” for the words from “the earnings”.”.
- (6) In paragraph 44, after “Part 7” insert “ , as originally enacted, ”.
 - (7) In paragraph 45(1), at end insert “ , as originally enacted. ”.
 - (8) In paragraph 46(1), after “disposal” insert “ , as originally enacted, ”.
 - (9) Omit paragraphs 47 and 48.
 - (10) In paragraph 49, for “shares” substitute “ securities ”.
 - (11) Omit paragraphs 50 to 52.
 - (12) Omit paragraph 53.
 - (13) In paragraph 54, after “Part 7” insert “ , both as originally enacted and as substituted by the Finance Act 2003, ”.
 - (14) In paragraph 55—
 - (a) after “Part 7” insert “ , as originally enacted, ”, and
 - (b) omit sub-paragraph (2)(a).
 - (15) In paragraph 56, after “section 449” insert “ , as originally enacted, ”.
 - (16) In paragraph 58(1), at end insert “ , as originally enacted. ”

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- (17) Omit paragraph 59.
- (18) Omit paragraphs 60 and 61.
- (19) After paragraph 61 insert—

“Securities disposed of for more than market value

61A Chapter 3D of Part 7 does not apply in relation to securities, or an interest in securities, acquired on or before 6th April 1976.”

- (20) Omit paragraph 62.
- (21) For paragraph 63 substitute—

“63 (1) This paragraph relates to the operation of section 474 (exclusions from Chapter 5 of Part 7: residence) in relation to an acquisition made before 6th April 2003.

(2) Section 474(1) has effect with the substitution of “ the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.”

- (22) In paragraph 64—
 - (a) for “share” (in both places) substitute “ securities ”,
 - (b) for “obtained” substitute “ acquired ”, and
 - (c) for “receipt” substitute “ acquisition ”.

- (23) In paragraph 65—
 - (a) in sub-paragraph (1), for “479 (amount of gain realised by exercising option) in relation to a share option obtained” substitute “ 478 in relation to an event that is a chargeable event by virtue of section 477(3)(a) or (b) (acquisition of securities pursuant to an option and assignment and release of option) in the case of a share option acquired ”, and
 - (b) in sub-paragraph (2), for “479(1)” substitute “ 478(1) ” and for “cost” substitute “ amount ”.

(24) Omit paragraph 66.

(25) Omit paragraph 67.

- (26) In this paragraph—
 - (a) sub-paragraphs (2) and (19) have effect in relation to securities, and interests in securities, disposed of on or after 16th April 2003,
 - (b) sub-paragraphs (5) and (13) to (17) have effect on and after 16th April 2003,
 - (c) sub-paragraphs (6) to (8), (10), (11), (20), (23) and (24) have effect on the day appointed under paragraph 3(2), and
 - (d) sub-paragraphs (21) and (22) have effect in accordance with the provision made for the substitution of Chapter 5 of Part 7.

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