

SCHEDULES

SCHEDULE 2

Section 488

APPROVED SHARE INCENTIVE PLANS

PART 1

INTRODUCTION

Approval of share incentive plans (SIPs)

- 1 (1) This Schedule makes provision for—
 - (a) the approval of share incentive plans (“SIPs”) by the Inland Revenue, and
 - (b) the administration and operation of such plans.
- (2) Parts 2 to 9 of this Schedule contain requirements that have to be met in order for plans to be approved under this Schedule.
- (3) The requirements consist of general requirements (see Part 2) and requirements as to—
 - the eligibility of individuals (see Part 3),
 - the types of shares that may be awarded (see Part 4),
 - free shares (see Part 5),
 - partnership shares (see Part 6),
 - matching shares (see Part 7),
 - cash dividends and dividend shares (see Part 8), and
 - the trustees (see Part 9).
- (4) Part 10 of this Schedule deals with the approval of plans and the withdrawal of approval.

SIPs: free shares and partnership shares

- 2 (1) In the SIP code a “share incentive plan” (or “SIP” for short) means (in accordance with section 488(4)) a plan established by a company providing—
 - (a) for shares to be appropriated to employees without payment (“free shares”),
or
 - (b) for shares to be acquired on behalf of employees out of sums deducted from their salary (“partnership shares”).
- (2) In the SIP code, in relation to a SIP—
 - “the company” means the company which established the plan;
 - “plan requirements” means requirements applying to the plan;
 - “the trustees” means the body of persons established under Part 9 to exercise functions in connection with the plan.

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Matching shares

- 3 (1) A SIP that provides for partnership shares may also provide for shares to be appropriated without payment to employees in proportion to the partnership shares acquired by them (“matching shares”).
- (2) If a SIP contains provision for all, or more than one, of the following—
free shares,
partnership shares, and
matching shares,
the plan may provide for the company to decide when the provisions relating to each kind of share are to have effect.

Group plans

- 4 (1) A SIP established by a company that controls other companies (a “parent company”) may extend to all or any of those other companies.
- (2) In the SIP code a SIP established by a parent company which so extends is referred to as a “group plan”.
- (3) In relation to a group plan a “constituent company” means—
(a) the parent company, or
(b) any other company to which for the time being the plan is expressed to extend.
- (4) Paragraph 91 deals with jointly owned companies and companies controlled by them.

Meaning of “award of shares”, “participant” etc.

- 5 (1) For the purposes of the SIP code an “award of shares” is made under a SIP on each occasion when in accordance with the plan—
(a) free or matching shares are appropriated to employees, or
(b) partnership shares are acquired on behalf of employees.
- (2) Accordingly, references to shares awarded to an individual under a SIP are to—
(a) free or matching shares appropriated to the individual, or
(b) partnership shares acquired on the individual’s behalf,
under the plan.
- (3) For the purposes of the SIP code an individual participates in an award of free, matching or partnership shares under a SIP if shares included in that award are—
(a) in the case of an award of free or matching shares, appropriated to the individual, or
(b) in the case of an award of partnership shares, acquired on the individual’s behalf.
- (4) In the SIP code, in relation to a SIP, “participant” means an individual to whom shares have been awarded under the plan.

PART 2

GENERAL REQUIREMENTS

General requirements for approval: introduction

- 6 A SIP must meet the plan requirements contained in—
- paragraph 7 (the purpose of the plan),
 - paragraph 8 (all-employee nature of plan),
 - paragraph 9 (participation on same terms),
 - paragraph 10 (no preferential treatment for directors and senior employees),
 - paragraph 11 (no further conditions), and
 - paragraph 12 (no loan arrangements).

The purpose of the plan

- 7 (1) The purpose of the plan must be to provide benefits to employees in the nature of shares in a company which give them a continuing stake in that company.
- (2) The plan must not contain, and the operation of the plan must not involve, features which are neither essential nor reasonably incidental to that purpose.

All-employee nature of plan

- 8 (1) The plan must provide that every employee who—
- (a) meets the requirements of Part 3 of this Schedule (eligibility of individuals) in relation to an award of shares under the plan, and
 - (b) is a UK resident taxpayer,
- is eligible to participate in the award, and is invited to do so.
- (2) An employee is a UK resident taxpayer if the employee's earnings from the employment by reference to which the employee meets the employment requirement are (or would be if there were any) general earnings to which section 15 or 21 applies (earnings for year when employee resident and ordinarily resident in the UK).
- (3) The plan must not contain any feature which has or is likely to have the effect of discouraging any description of employees within sub-paragraph (1) from participating in an award of shares under the plan.
- (4) Sub-paragraph (3) does not apply to any provision required or authorised by this Schedule.
- (5) The plan may provide that an employee who—
- (a) meets the requirements of Part 3 of this Schedule (eligibility of individuals) in relation to an award of shares under the plan, but
 - (b) is not a UK resident taxpayer (see sub-paragraph (2)),
- is eligible to participate in the award, and may be invited to do so.
- (6) For the purposes of the SIP code an individual is a “qualifying employee”, in relation to an award of shares, if the individual—
- (a) is eligible to participate in it under sub-paragraph (1), or

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- (b) is eligible to participate in it under sub-paragraph (5) and has been invited to do so.

Participation on same terms

- 9 (1) The requirement of this paragraph is that—
- (a) every employee who is invited to participate in an award must be invited to participate on the same terms, and
 - (b) those who do participate must actually do so on the same terms.
- (2) The requirement of this paragraph is infringed by the awarding of free shares by reference to factors other than those mentioned in sub-paragraph (3).
- (3) The requirement of this paragraph is not infringed by the awarding of free shares by reference to—
- (a) an employee’s remuneration,
 - (b) an employee’s length of service, or
 - (c) hours worked by an employee;
- but this is subject to sub-paragraph (4).
- (4) If the awarding of free shares is by reference to more than one of the factors mentioned in sub-paragraph (3), the requirement of this paragraph is infringed unless—
- (a) each factor gives rise to a separate entitlement related to the level of remuneration, length of service or (as the case may be) hours worked, and
 - (b) the total entitlement is the sum of those separate entitlements.
- (5) In the case of an award of free shares which provides for performance allowances, this paragraph has effect as provided in—
- (a) paragraph 41 (performance allowances: method one), or
 - (b) paragraph 42 (performance allowances: method two).
- (6) In sub-paragraph (5) “performance allowances” has the meaning given in paragraph 34(4).
- (7) In the case of an award of partnership shares, the requirement of this paragraph is not infringed by the operation of any percentage limit specified in or under paragraph 46(2) or (3) (maximum amount of deductions) so far as the application of that limit to employees with different levels of remuneration results in deductions of different amounts or in the award of different numbers of shares.

No preferential treatment for directors and senior employees

- 10 (1) The first requirement of this paragraph is that no feature of the plan has or is likely to have the effect of conferring benefits wholly or mainly—
- (a) on directors, or
 - (b) on employees receiving the higher or highest levels of remuneration.
- (2) The second requirement of this paragraph applies only if the plan is established by a company that is a member of a group.

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- (3) The requirement is that the identity of the company (or, if it is a group plan, the constituent companies) must not be such that the plan has or is likely to have the effect of conferring benefits wholly or mainly—
 - (a) on employees of companies that are members of the group who receive the higher or highest levels of remuneration, or
 - (b) on directors of such companies.
- (4) The requirements of this paragraph are not infringed by the awarding of free shares in circumstances where (as a result of paragraph 9(3) and (4)) that would not constitute an infringement of the requirements of paragraph 9.

No further conditions

- 11 No conditions apart from those required or authorised by this Schedule may be imposed on an employee's participation in an award of shares under the plan.

No loan arrangements

- 12 (1) The arrangements for the plan must not make any provision, or be associated in any way with any provision made, for loans to some or all of the employees of—
 - (a) the company, or
 - (b) in the case of a group plan, of any constituent company.
- (2) The operation of the plan must not be associated in any way with such loans.
- (3) In sub-paragraph (1) “arrangements” includes any scheme, agreement, undertaking or understanding, whether or not legally enforceable.

PART 3

ELIGIBILITY OF INDIVIDUALS

Eligibility of individuals: introduction

- 13 A SIP must meet the plan requirements contained in—
 - paragraph 14 (time of eligibility to participate),
 - paragraph 15 (the employment requirement),
 - paragraph 18 (requirement not to participate in other SIPs), and
 - paragraph 19 (the “no material interest” requirement).

Time of eligibility to participate

- 14 (1) The plan must provide that an individual may only participate in an award of shares if the individual is eligible to participate in the award at the appropriate time mentioned below.
- (2) In the case of an award of free shares, the appropriate time is the time when the award is made.

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- (3) In the case of an award of partnership shares where the plan does not provide for an accumulation period, the appropriate time is the time of the deduction of the partnership share money relating to the award.
- (4) In the case of an award of partnership shares where the plan does provide for an accumulation period, the appropriate time is the time of the first deduction of partnership share money relating to the award.
- (5) In the case of an award of matching shares where the plan does not provide for an accumulation period, the appropriate time is the time of the deduction of the partnership share money relating to the award of partnership shares to which the matching shares relate.
- (6) In the case of an award of matching shares where the plan does provide for an accumulation period, the appropriate time is the time of the first deduction of partnership share money relating to the award of partnership shares to which the matching shares relate.
- (7) For the purposes of this paragraph an individual is eligible to participate in an award of shares under the plan if and only if the requirements of the plan are met as to—
 - (a) employment (see paragraph 15),
 - (b) not participating in other SIPs (see paragraph 18), and
 - (c) not having a material interest (see paragraph 19).
- (8) In the case of an individual within paragraph 8(5) (all-employee nature of plan: non-UK resident taxpayer), the individual is not eligible to participate in an award of shares under the plan unless (in addition to the requirements mentioned in sub-paragraph (7)) any further eligibility requirements of the plan are met.

The employment requirement

- 15 (1) The plan must provide that an individual is not eligible to participate in an award of shares unless the individual meets the requirement in sub-paragraph (2).
- (2) The requirement is that the individual—
- (a) is an employee of—
 - (i) the company, or
 - (ii) in the case of a group plan, a constituent company, and
 - (b) if the plan provides for a qualifying period, has at all times during that period been an employee of a qualifying company.
- (3) In the SIP code “the employment requirement” means the requirement in sub-paragraph (2).
- (4) This paragraph is supplemented—
- (a) as regards qualifying periods, by paragraph 16, and
 - (b) as regards the meaning of “qualifying company”, by paragraph 17.

Qualifying periods

- 16 (1) This paragraph applies if the plan provides for a qualifying period in relation to an award.

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- (2) In the case of an award of free shares, the qualifying period must be a period of not more than 18 months ending with the date on which the award is made.
- (3) In the case of an award of partnership shares where the plan does not provide for an accumulation period, the qualifying period must be a period of not more than 18 months ending with the deduction of partnership share money relating to the award.
- (4) In the case of an award of partnership shares where the plan does provide for an accumulation period, the qualifying period must be a period of not more than 6 months ending with the start of the accumulation period relating to the award.
- (5) In the case of an award of matching shares where the plan does not provide for an accumulation period, the qualifying period must be a period of not more than 18 months ending with the deduction of partnership share money relating to the award of partnership shares to which the matching shares relate.
- (6) In the case of an award of matching shares where the plan does provide for an accumulation period, the qualifying period must be a period of not more than 6 months ending with the start of the accumulation period relating to the award of partnership shares to which the matching shares relate.
- (7) In relation to an award, the same qualifying period must apply in relation to all employees—
 - (a) of the company, or
 - (b) in the case of a group plan, of the constituent companies.
- (8) The plan may authorise the company to specify different qualifying periods in respect of different awards of shares, but the requirements in sub-paragraphs (2) to (7) apply to periods so specified.

Meaning of “qualifying company”

- 17 (1) For the purposes of paragraph 15(2) “qualifying company” has the meaning given by this paragraph.
- (2) Except in the case of a group plan, “qualifying company” means—
 - (a) the company, or
 - (b) a company that, when the individual was employed by it, was an associated company—
 - (i) of the company, or
 - (ii) of another company qualifying under this paragraph.
- (3) In the case of a group plan, “qualifying company” means—
 - (a) a company that is a constituent company at the end of the qualifying period mentioned in paragraph 15(2),
 - (b) a company that, when the individual was employed by it, was a constituent company, or
 - (c) a company that, when the individual was employed by it, was an associated company of—
 - (i) a company qualifying under paragraph (a) or (b), or
 - (ii) another company qualifying under this paragraph.

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Requirement not to participate in other SIPs

- 18 (1) The plan must provide that an individual is not eligible to participate in an award of free, matching or partnership shares under the plan in a tax year if the individual—
- (a) has in that year already participated, or
 - (b) is at the same time to participate,
- in an award of shares under another approved SIP established by the company or a connected company.
- (2) For the purposes of this paragraph an individual is to be treated as having participated in an award of free shares under a SIP if the individual would have participated in that award but for the individual's failure to obtain a performance allowance (see paragraph 34).
- (3) In this paragraph “connected company” means—
- (a) a company which controls or is controlled by the company or which is controlled by a company which also controls the company, or
 - (b) a company which is a member of a consortium owning the company or which is owned in part by the company as a member of a consortium.

The “no material interest” requirement

- 19 (1) The plan must provide that an individual is not eligible to participate in an award of shares on any date if the individual has on that date, or has had within the 12 months ending with that date, a material interest in—
- (a) a close company whose shares may be awarded under the plan, or
 - (b) a company which has control of such a company or is a member of a consortium which owns such a company.
- (2) For the purposes of this paragraph an individual is to be regarded as having a material interest in a company if—
- (a) the individual,
 - (b) the individual together with one or more of the individual's associates, or
 - (c) any such associate, with or without any other such associates,
- has a material interest in the company.
- (3) This paragraph is supplemented—
- (a) as regards the meaning of “material interest”, by paragraphs 20 and 21, and
 - (b) as regards the meaning of “associate”, by paragraphs 22 to 24.

Meaning of “material interest”

- 20 (1) In paragraph 19 (the “no material interest” requirement) references to a “material interest” in a company are to—
- (a) a material interest in the share capital of the company, or
 - (b) where it is a close company, a material interest in its assets.
- (2) A material interest in the share capital of a company means—
- (a) beneficial ownership of, or
 - (b) the ability to control (directly or through the medium of other companies or by any other indirect means),
- more than 25% of the ordinary share capital of the company.

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- (3) A material interest in the assets of a close company means—
- (a) possession of, or
 - (b) an entitlement to acquire,
- such rights as would, in the event of the winding up of the company or in any other circumstances, give an entitlement to receive more than 25% of the assets that would then be available for distribution among the participators.
- (4) In this paragraph—
- “close company” includes a company that would be a close company but for—
- (a) section 414(1)(a) of ICTA (exclusion of companies not resident in the United Kingdom), or
 - (b) section 415 of ICTA (exclusion of certain quoted companies), and
- “participator” has the meaning given by section 417(1) of ICTA.
- (5) This paragraph is supplemented by paragraph 21 (material interest: options and interests in SIPs).

Material interest: options and interests in SIPs

- 21 (1) This paragraph applies for the purposes of paragraph 20 (meaning of “material interest”).
- (2) A right to acquire shares (however arising) is to be treated as a right to control them.
- (3) Sub-paragraph (4) applies in a case where—
- (a) the shares to be attributed to an individual consist of or include shares which the individual or another person has a right to acquire, and
 - (b) the circumstances are such that, if that right were to be exercised, the shares acquired would be shares which were previously unissued and which the company would be contractually bound to issue in the event of the exercise of the right.
- (4) In determining at any time prior to the exercise of the right whether the number of shares to be attributed to the individual exceeds 25% of the ordinary share capital of the company, that ordinary share capital is to be treated as increased by the number of unissued shares referred to in sub-paragraph (3)(b).
- (5) The references in sub-paragraphs (3) and (4) to the shares to be attributed to an individual are to the shares which—
- (a) for the purposes of paragraph 20(2) (material interest in share capital), and
 - (b) in accordance with paragraph 19(2) (material interest can consist of or include that of the individual’s associates),
- fall to be brought into account in the individual’s case so that it can be determined whether their number exceeds 25% of the company’s ordinary share capital.
- (6) In applying paragraph 20 the following are to be disregarded—
- (a) the interest of the trustees of any approved SIP in any shares which are held by them in accordance with the plan but which have not been appropriated to, or acquired on behalf of, an individual, and
 - (b) any rights exercisable by the trustees as a result of that interest.

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Meaning of “associate”

- 22 (1) In paragraph 19(2) (the “no material interest” requirement) “associate”, in relation to an individual, means—
- (a) any relative or partner of the individual,
 - (b) the trustee or trustees of any settlement in relation to which the individual, or any of the individual’s relatives (living or dead), is or was a settlor, and
 - (c) where the individual is interested in any shares or obligations of the company mentioned in paragraph 19(2) which are subject to any trust, or are part of the estate of a deceased person—
 - (i) the trustee or trustees of the settlement concerned, or
 - (ii) the personal representatives of the deceased,
 as the case may be.
- (2) Sub-paragraph (1)(c) needs to be read with paragraphs 23 and 24 (which relate to employee benefit trusts and discretionary trusts).
- (3) In this paragraph—
- “relative” means—
- (a) spouse,
 - (b) parent, child or remoter relation in the direct line, or
 - (c) brother or sister;
- “settlor” and “settlement” have the same meaning as in Chapter 1A of Part 15 of ICTA (see section 660G(1) and (2)).

Meaning of “associate”: trustees of employee benefit trust

- 23 (1) This paragraph applies for the purposes of paragraph 22(1)(c) (meaning of “associate”: trustees of settlement) where an individual is interested as a beneficiary of an employee benefit trust in shares or obligations of the company mentioned in paragraph 19(2).
- (2) The trustees of the employee benefit trust are not to be regarded as associates of the individual as a result only of the individual’s being so interested if neither—
- (a) the individual, nor
 - (b) the individual together with one or more of the individual’s associates, nor
 - (c) any such associate, with or without any other such associates,
- has at any time after 13th March 1989 been the beneficial owner of, or able (directly or through the medium of other companies or by any other indirect means) to control, more than 25% of the ordinary share capital of the company.
- (3) In sub-paragraph (2)(b) and (c) “associate” has the meaning given by paragraph 22(1), but does not include the trustees of an employee benefit trust as a result only of the individual’s having an interest in shares or obligations of the trust.
- (4) Chapter 11 of Part 7 of this Act (which deals with the attribution of interests in companies to beneficiaries of employee benefit trusts) applies for the purposes of sub-paragraph (2).
- (5) In this paragraph “employee benefit trust” has the same meaning as in that Chapter (see sections 550 and 551).

Meaning of “associate”: trustees of discretionary trust

- 24 (1) This paragraph applies for the purposes of paragraph 22(1)(c) (meaning of “associate”: trustees of settlement) where—
- (a) the individual (“the beneficiary”) is one of the objects of a discretionary trust,
 - (b) the property subject to the trust has at any time consisted of, or included, shares or obligations of the company mentioned in paragraph 19(2),
 - (c) the beneficiary has ceased to be eligible to benefit under the trust as a result of—
 - (i) an irrevocable disclaimer or release executed by the beneficiary, or
 - (ii) the irrevocable exercise by the trustees of a power to exclude the beneficiary from the objects of the trust,
 - (d) immediately after the beneficiary ceased to be so eligible, no associate of the beneficiary was interested in the shares or obligations of the company which were subject to the trust, and
 - (e) during the period of 12 months ending with the date on which the beneficiary ceased to be so eligible, neither the beneficiary nor any associate of the beneficiary received any benefit under the trust.
- (2) The beneficiary is not, as a result only of the matters mentioned in sub-paragraph (1) (a) and (b), to be regarded as having been interested in the shares or obligations of the company at any time during that period of 12 months.
- (3) In sub-paragraph (1) “associate” has the meaning given by paragraph 22(1), but with the omission of paragraph (c) (trusts and estates).

PART 4

TYPES OF SHARES THAT MAY BE AWARDED

Types of share that may be awarded: introduction

- 25 (1) The requirements of the following paragraphs must be met with respect to any shares that may be awarded under a SIP—
- paragraph 26 (shares must be part of ordinary share capital of certain companies),
 - paragraph 27 (requirement as to listing etc.),
 - paragraph 28 (shares must be fully paid up and not redeemable),
 - paragraph 29 (prohibited shares), and
 - paragraph 30 (only certain kinds of restriction allowed).
- (2) In this Part of this Schedule “eligible shares” means shares that may be awarded under the plan.

Shares must be part of ordinary share capital of certain companies

- 26 Eligible shares must form part of the ordinary share capital of—
- (a) the company,
 - (b) a company which has control of the company, or

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- (c) a company which either is, or has control of, a company which is a member of a consortium owning either the company or a company having control of the company.

Requirement as to listing etc.

- 27 (1) Eligible shares must be—
- (a) shares of a class listed on a recognised stock exchange,
 - (b) shares in a company which is not under the control of another company, or
 - (c) shares in a company which is under the control of a listed company.
- (2) A “listed company” is a company whose shares are listed on a recognised stock exchange, other than—
- (a) a close company, or
 - (b) a company that would be a close company if resident in the United Kingdom.

Shares must be fully paid up and not redeemable

- 28 (1) Eligible shares must be—
- (a) fully paid up, and
 - (b) not redeemable.
- (2) For the purposes of sub-paragraph (1)(a) shares are not to be regarded as fully paid up if there is an undertaking to pay cash at a future date to the company whose shares they are.
- (3) For the purposes of sub-paragraph (1)(b) “redeemable” shares include shares that may become redeemable at a future date.
- (4) Sub-paragraph (1)(b) does not apply to shares in a registered industrial and provident society which is a co-operative society.
- (5) In sub-paragraph (4)—
- “registered industrial and provident society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 (c. 12) or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), and
 - “co-operative society” has the same meaning as in section 1 of the 1965 Act or, as the case may be, the 1969 Act.

Prohibited shares

- 29 (1) Eligible shares must not be shares in—
- (a) a service company, or
 - (b) a company that—
 - (i) has control of a service company, and
 - (ii) is under the control of a person or persons who fall within sub-paragraph (2)(b)(i) or (ii) as it applies to a service company.
- (2) For the purposes of this paragraph a company is a “service company” if—
- (a) the business carried on by it consists substantially in the provision of the services of persons employed by it, and

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- (b) the majority of those services are provided to—
 - (i) a person who has control of the company,
 - (ii) two or more persons who together have control of the company, or
 - (iii) a company associated with the company.
- (3) For the purposes of sub-paragraph (2)(b)(iii) a company is associated with another company if both companies are under the control of the same person or persons.
- (4) For the purposes of sub-paragraphs (1) to (3)—
 - (a) a partnership is to be treated as a single person; and
 - (b) where a partner (alone or together with others) has control of a company, the partnership is to be treated as having (in the same way) control of that company.
- (5) For the purposes of this paragraph the question whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA.

Only certain kinds of restriction allowed

- 30 (1) Eligible shares must not be subject to any restrictions other than—
- (a) those affecting all ordinary shares in the company,
 - (b) those permitted by—
 - (i) paragraph 31 (voting rights),
 - (ii) paragraph 32 (provision for forfeiture), or
 - (iii) paragraph 33 (pre-emption conditions), or
 - (c) those involved in there being a holding period (see paragraphs 36, 61 and 67).
- (2) For the purposes of this paragraph shares are subject to a restriction if there is any contract, agreement, arrangement or condition—
- (a) by which a person's freedom to dispose of the shares or of any interest in them or of the proceeds of their sale or to exercise any right conferred by them is restricted, or
 - (b) by which such a disposal or exercise may result in any disadvantage to the person or to a person connected with the person.
- This is subject to sub-paragraphs (3) and (4).
- (3) Sub-paragraph (2) does not extend to so much of any contract, agreement, arrangement or condition as contains provisions similar in purpose and effect to any of the provisions of the Model Code as (for the time being) set out in the listing rules issued by the competent authority for listing in the United Kingdom under section 74(4) of the Financial Services and Markets Act 2000 (c. 8).
- (4) Any discretion of the directors under the articles of association of the company to refuse to accept the transfer of shares is to be disregarded for the purposes of this paragraph if the directors—
- (a) have undertaken to the Inland Revenue not to exercise it in such a way as to discriminate against participants, and
 - (b) have notified all qualifying employees of the existence of the undertaking.

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Permitted restrictions: voting rights

- 31 Eligible shares may be shares carrying no voting rights or limited voting rights.

Permitted restrictions: provision for forfeiture

- 32 (1) Free or matching shares may be subject to provision for forfeiture—
- (a) on the participant ceasing to be in relevant employment at any time in the forfeiture period,
 - (b) on the participant withdrawing the shares from the plan at any such time, or
 - (c) in the case of matching shares, on the participant withdrawing from the plan at any such time the partnership shares in respect of which those shares were awarded.
- (2) Sub-paragraph (1)(a) does not, however, authorise the making of provision for forfeiture on the participant ceasing to be in relevant employment—
- (a) because of injury or disability,
 - (b) on being dismissed by reason of redundancy,
 - (c) by reason of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794) apply,
 - (d) if the relevant employment is employment by an associated company (see paragraph 95(2)), by reason of a change of control or other circumstances ending that company's status as an associated company,
 - (e) by reason of the participant's retirement on or after reaching the specified retirement age (see paragraph 98), or
 - (f) on the participant's death.
- (3) Forfeiture may not be linked to the performance of any person or persons.
- (4) The same provision for forfeiture must apply in relation to all free or matching shares included in the same award under the plan.
- (5) In this paragraph “the forfeiture period” means the forfeiture period specified in the plan, which must be a period of not more than 3 years beginning with the date on which the shares were awarded to the participant.

Permitted restrictions: pre-emption conditions

- 33 (1) If the requirements of this paragraph are met, eligible shares may be subject to provision requiring shares—
- (a) that were awarded to an employee under the plan, and
 - (b) that are held by an employee or a permitted transferee,
- to be offered for sale on the employee ceasing to be in relevant employment.
- (2) For the purposes of sub-paragraph (1)(b) a “permitted transferee” means a person to whom, under the articles of association of the company, the employee is permitted to transfer the shares.
- (3) The requirements of this paragraph are that under the articles of association of the company—
- (a) the same provision applies to all employees of the company or, in the case of a parent company, to all employees of that company or any company of which that company has control,

- (b) the shares are required to be offered for sale at a specified consideration, and
- (c) anyone disposing of shares of the same class (whether or not as an employee) is required to offer the shares for sale on no better terms.

PART 5

FREE SHARES

Free shares: introduction

- 34 (1) If a SIP provides for free shares, it must meet the plan requirements contained in—
paragraph 35 (maximum annual award), and
paragraph 36 (the holding period).
- (2) If a SIP provides for free shares and for performance allowances, the requirements of the following paragraphs also apply—
paragraph 38 (performance allowances: general application),
paragraph 39 (performance allowances: targets and measures),
paragraph 40 (performance allowances: information to be given to employees),
and
either paragraph 41 or 42 (performance allowances: methods of awarding shares).
- (3) The plan must meet any plan requirements contained in those paragraphs.
- (4) For the purpose of the SIP code a plan provides for performance allowances if it provides for—
(a) whether or not free shares will be awarded to an individual, or
(b) the number or value of free shares awarded,
to be conditional on performance targets being met.

Maximum annual award

- 35 (1) The plan must provide that the initial market value of the free shares awarded to a participant in a tax year is not to exceed £3,000.
- (2) The “initial market value” of shares means their market value on the date on which they are awarded.
- (3) For the purposes of this paragraph the market value of shares subject to restrictions or risk of forfeiture is to be determined as if there were no such restrictions or risk.
- (4) Shares are “subject to risk of forfeiture” if the interest that may be acquired is only conditional within the meaning of section 424 (conditional interests in shares).

The holding period

- 36 (1) The plan must require the company in respect of each award of free shares to specify a period (“the holding period”) during which a participant is bound by contract with the company—
(a) to permit the free shares awarded to the participant to remain in the hands of the trustees, and

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- (b) not to assign, charge or otherwise dispose of the beneficial interest in the shares.
- (2) The holding period—
 - (a) must be a period of at least 3 years but not more than 5 years, beginning with the date on which the shares in question are awarded to the participant, and
 - (b) must be the same for all shares in the same award.
- (3) The plan—
 - (a) may authorise the company to specify different holding periods from time to time, but
 - (b) must prevent the company from increasing the holding period specified in respect of free shares that have been awarded under the plan.
- (4) The participant’s obligations with respect to the holding period are subject to—
 - (a) paragraph 37 (power to authorise trustees to accept general offers etc.),
 - (b) paragraph 79 (meeting by trustees of PAYE obligations), and
 - (c) paragraph 90(5) (termination of plan: early removal of shares with participant’s consent).
- (5) If at any time in the holding period the participant ceases to be in relevant employment, the participant’s obligations with respect to that period come to an end.

Holding period: power of participant to direct trustees to accept general offers etc.

- 37 (1) A participant may direct the trustees to do any of the following during the holding period.
- (2) The participant may direct the trustees to accept an offer for any of the participant’s free shares (“the original shares”) if the acceptance or agreement will result in a new holding being equated with the original shares for the purposes of capital gains tax.
 - (3) The participant may direct the trustees to agree to a transaction affecting the participant’s free shares, or such of them as are of a particular class, if the transaction would be entered into as a result of a compromise, arrangement or scheme applicable to or affecting—
 - (a) all the ordinary share capital of the company or, as the case may be, all the shares of the class in question, or
 - (b) all the shares, or all the shares of the class in question, which are held by a class of shareholders identified otherwise than by reference to their employment or their participation in an approved SIP.
 - (4) The participant may direct the trustees to accept an offer for the participant’s free shares of—
 - (a) cash, with or without other assets, or
 - (b) a qualifying corporate bond (whether alone or with other assets or cash or both),
 if the offer forms part of a general offer falling within sub-paragraph (5).
 - (5) A general offer falls within this sub-paragraph if—
 - (a) it is made to holders of shares of the same class as the participant’s or to holders of shares in the same company, and

(b) it is made in the first instance on a condition such that if it is satisfied the person making the offer will have control of that company.

(6) In sub-paragraph (5) “control” has the meaning given by section 416 of ICTA.

Performance allowances: general application

38 A plan that provides for performance allowances in relation to an award must make provision for such allowances for all qualifying employees in relation to that award.

Performance allowances: targets and measures

39 (1) A plan that provides for performance allowances must comply with the following requirements with respect to performance targets and performance measures.

(2) The performance targets must be set for performance units comprising one or more employees.

(3) The performance measures used must—

(a) be based on business results or other objective criteria, and

(b) be fair and objective measures of the performance of the units to which they are or may be applied.

(4) For the purposes of an award of free shares under the plan an employee must not be a member of more than one performance unit.

Performance allowances: information to be given to employees

40 (1) A plan that provides for performance allowances in relation to an award of shares must require the company—

(a) to notify each qualifying employee who has accepted an invitation to participate in the award of the performance targets and measures which, under the plan, will be used to determine the number or value of free shares awarded to the employee, and

(b) to notify all qualifying employees—

(i) of the company, or

(ii) in the case of a group plan, of any constituent company,

in general terms, of the performance measures to be used to determine the number or value of free shares to be awarded to each employee participating in the award.

(2) The notices must be given as soon as reasonably practicable.

(3) The company may exclude from the notice mentioned in sub-paragraph (1)(b) any information whose disclosure the company reasonably considers would prejudice commercial confidentiality.

Performance allowances: method one

41 (1) The requirements of this paragraph are those contained in sub-paragraph (2).

(2) In the case of an award in relation to which the plan provides for performance allowances—

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- (a) at least 20% of the shares in the award must be awarded without reference to performance in accordance with the requirement of paragraph 9 (participation on same terms),
 - (b) the remaining shares must be awarded by reference to performance, and
 - (c) the highest number of shares within paragraph (b) awarded to an individual must not be more than four times the highest number of shares within paragraph (a) awarded to an individual.
- (3) In determining for the purposes of sub-paragraph (2)(a) whether the requirement of paragraph 9 is met, the shares to which sub-paragraph (2)(a) applies are to be treated as a separate award of free shares.
- (4) If the plan meets the requirements of this paragraph, the requirement of paragraph 9 does not apply to any provision of the plan relating to the awarding of shares within sub-paragraph (2)(b).
- (5) If free shares of different classes are awarded, the requirements of this paragraph apply separately in relation to each class.

Performance allowances: method two

- 42 (1) The requirements of this paragraph are those contained in sub-paragraphs (2) and (3).
- (2) In the case of an award in relation to which the plan provides for performance allowances—
- (a) some or all of the shares in the award must be awarded by reference to performance, and
 - (b) the awarding of the shares to qualifying employees who are members of the same performance unit must meet the requirement of paragraph 9 (participation on same terms).
- (3) The performance targets set in connection with such an award must be consistent targets (see sub-paragraph (6)).
- (4) In determining for the purposes of sub-paragraph (2)(b) whether the requirement of paragraph 9 is met, the free shares awarded in respect of each performance unit are to be treated as a separate award of free shares.
- (5) If this method is used, nothing in paragraph 9 requires the awarding of shares to members of different performance units to be on the same terms.
- (6) In sub-paragraph (3) “consistent targets” means targets which, at the time when they are set in accordance with the plan, can reasonably be viewed as being comparable in terms of the likelihood of their being met by the performance units to which they apply.

PART 6

PARTNERSHIP SHARES

Partnership shares: introduction

- 43 (1) If a SIP provides for partnership shares, the following paragraphs apply—

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paragraph 44 (partnership share agreements),
paragraph 45 (deductions from salary),
paragraph 46 (maximum amount of deductions),
paragraph 47 (minimum amount of deductions),
paragraph 48 (notice of possible effect of deductions on benefit entitlement),
paragraph 49 (partnership share money held for employee),
paragraph 50 (application of money deducted where no accumulation periods),
paragraph 51 (accumulation periods),
paragraph 52 (application of money deducted in accumulation period),
paragraph 53 (restriction on number of shares awarded),
paragraph 54 (stopping and re-starting deductions),
paragraph 55 (withdrawal from partnership share agreement),
paragraph 56 (repayment of partnership share money on withdrawal of approval or termination), and
paragraph 57 (access to partnership shares).

- (2) The plan must meet any plan requirements contained in those paragraphs.
- (3) References in the SIP code to the trustees acquiring partnership shares on behalf of an employee include their appropriating to an employee shares already held by them.
- (4) In the SIP code references to an employee’s “salary” are to be read as follows—
 - (a) in the case of an individual within the scope of the charge to tax under Part 2 of this Act, they are to be read as references to such of the earnings of the eligible employment—
 - (i) as are liable to be paid under deduction of tax under PAYE regulations, after deducting any amounts included by virtue of the benefits code, or
 - (ii) as would be liable to be so paid apart from the SIP code;
 - (b) in the case of an individual not within the scope of the charge to tax under Part 2 of this Act, they are to be read as references to such of the earnings of the eligible employment as would have fallen within sub-paragraph (i) or (ii) of paragraph (a) if the individual had been within the scope of that charge to tax.
- (5) In sub-paragraph (4) “the eligible employment” means the employment by reference to which the employee is eligible to participate in the plan.

Partnership share agreements

- 44
- (1) The plan must provide for qualifying employees to enter into agreements with the company (“company A”) under which—
 - (a) the employee authorises the employer company to deduct part of the employee’s salary for the purchase of partnership shares, and
 - (b) company A undertakes to arrange for partnership shares to be awarded to the employee in accordance with the plan.
 - (2) Such agreements are referred to in the SIP code as “partnership share agreements”.
 - (3) In sub-paragraph (1) “the employer company” means the company by reference to which the employee meets the employment requirement in relation to the plan.

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Deductions from salary

- 45 (1) The plan must provide for a partnership share agreement to be given effect by deductions from the employee's salary.
- (2) Amounts so deducted are referred to in the SIP code as "partnership share money".
- (3) The partnership share agreement must specify—
- (a) what amounts are to be deducted, and
 - (b) at what intervals;
- but this does not prevent the employee and the company agreeing to vary those amounts or intervals.
- (4) For the purposes of sub-paragraph (3)(a) the agreement may specify a percentage of the employee's salary.
- (5) The plan must require the employer company to calculate the amounts and intervals having regard to paragraph 46 (maximum amount of deductions from salary).
- (6) In sub-paragraph (5) "the employer company" means the company by reference to which the employee meets the employment requirement in relation to the plan.

Maximum amount of deductions

- 46 (1) The amount of partnership share money deducted from an employee's salary must not exceed—
- (a) £125 in any month, or
 - (b) where the salary is not paid at monthly intervals, such amount as bears to £125 the same proportion as the pay interval in question bears to one month.
- (2) The amount of partnership share money deducted from an employee's salary must not exceed 10% of the employee's salary.
- "10% of the employee's salary" means—
- (a) if the plan does not provide for an accumulation period, 10% of the salary payment from which the deduction is made;
 - (b) if the plan provides for an accumulation period, 10% of the total of the employee's salary payments over that period.
- (3) The plan may authorise the company to specify lower limits than those specified in sub-paragraphs (1) and (2).
- (4) If it does so, different limits may be specified in relation to different awards of shares.
- (5) Any amount deducted in excess of that allowed by sub-paragraph (1) or (2), or any lower limit in the plan, must be paid over to the employee as soon as practicable.

Minimum amount of deductions

- 47 (1) The plan may provide that the amount to be deducted under a partnership share agreement in any month must not be less than a minimum amount specified in the plan.
- (2) The specified minimum amount must not be greater than £10.
- (3) Sub-paragraphs (1) and (2) apply whatever the intervals at which the employee is paid may be.

Notice of possible effect of deductions on benefit entitlement

- 48 (1) The plan must provide that the company may not enter into a partnership share agreement with an employee unless the agreement contains a notice under this paragraph.
- (2) A notice under this paragraph is a notice in a prescribed form containing prescribed information as to the possible effect of deductions on an employee's entitlement to social security benefits, statutory sick pay and statutory maternity pay.
- (3) In this paragraph "prescribed" means prescribed by regulations made by the Board of Inland Revenue.

Partnership share money held for employee

- 49 (1) The plan must provide that partnership share money deducted under a partnership share agreement is—
- (a) paid to the trustees as soon as practicable, and
 - (b) held by them on behalf of the employee until such time as it is applied by them in acquiring partnership shares on the employee's behalf.
- (2) Sub-paragraph (1) is subject to paragraphs 50(5)(b) and 52(6)(b) and (7) (obligations to pay money to the employee).
- (3) The plan must provide for the trustees to keep any money required to be held by them under this paragraph in an account (interest bearing or otherwise) with—
- (a) a person falling within section 840A(1)(b) of ICTA (certain institutions permitted to accept deposits),
 - (b) a building society, or
 - (c) a firm falling within section 840A(1)(c) of ICTA (EEA firms permitted to accept deposits).
- (4) The plan must provide for the trustees to account to an employee for the interest if the partnership share money held on behalf of the employee is held in an interest bearing account.

Application of money deducted where no accumulation periods

- 50 (1) If the plan does not provide for an accumulation period, it must provide for partnership share money to be applied by the trustees in acquiring partnership shares on behalf of the employee on the acquisition date.
- (2) The number of shares awarded to each employee must be determined in accordance with the market value of the shares on the acquisition date.
- (3) Sub-paragraphs (1) and (2) are subject to paragraph 53 (restriction on number of shares awarded).
- (4) In those sub-paragraphs "the acquisition date" means the date set by the trustees in relation to the award of partnership shares, which must be not later than 30 days after the last date on which the partnership share money to be applied in acquiring the shares was deducted.
- (5) Any surplus partnership share money remaining after the acquisition of shares by the trustees—

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- (a) may with the agreement of the employee be carried forward and added to the amount of the next deduction, and
- (b) in any other case must be paid over to the employee as soon as practicable.

Accumulation periods

- 51 (1) The plan may provide for accumulation periods not exceeding 12 months.
- (2) If the plan does so, the following provisions apply.
- (3) The partnership share agreements—
- (a) must specify when each accumulation period begins and ends;
 - (b) may specify that an accumulation period comes to an end on the occurrence of a specified event.
- (4) However—
- (a) the beginning of the first accumulation period must not be later than the date on which the first deduction of partnership share money is made; and
 - (b) the accumulation period which applies in relation to each award of partnership shares must be the same for all individuals entering into the partnership share agreements.
- (5) The plan may also provide that if—
- (a) during an accumulation period, a transaction occurs in relation to any of the shares (“the original holding”) to be acquired under a partnership share agreement which results in a new holding of shares being equated with the original holding for the purposes of capital gains tax, and
 - (b) the employee consents,
- the partnership share agreement is to have effect after the time of the transaction as if it were an agreement for the purchase of the shares comprised in the new holding.

Application of money deducted in accumulation period

- 52 (1) This paragraph applies if the plan provides for one or more accumulation periods.
- (2) The plan must provide for the partnership share money deducted in each accumulation period under a partnership share agreement to be applied by the trustees in acquiring partnership shares on behalf of the employee on the acquisition date.
- (3) The number of shares awarded to each employee must be determined in accordance with the lower of—
- (a) the market value of the shares at the beginning of the accumulation period, and
 - (b) the market value of the shares on the acquisition date.
- (4) Sub-paragraphs (2) and (3) are subject to sub-paragraphs (7) and (8) and to paragraph 53 (restriction on number of shares awarded).
- (5) In sub-paragraphs (2) and (3) “the acquisition date” means the date set by the trustees in relation to the award of partnership shares, which must be not later than 30 days after the end of the accumulation period which applies in relation to the award.
- (6) Any surplus partnership share money remaining after the acquisition of shares by the trustees—

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- (a) may with the agreement of the employee be carried forward to the next accumulation period, and
 - (b) in any other case must be paid over to the employee as soon as practicable.
- (7) The plan must provide that where the employee ceases to be in relevant employment during an accumulation period, any partnership share money deducted in the period is to be paid over to the individual as soon as practicable.
- (8) The partnership share agreement may provide that, where an accumulation period comes to an end on the occurrence of a specified event, the partnership share money deducted in that period must be paid over to the individual as soon as practicable instead of being applied in acquiring shares.

Restriction on number of shares awarded

- 53 (1) The plan may authorise the company to specify the maximum number of shares (“the award maximum”) to be included in an award of partnership shares.
- (2) If the plan does so—
- (a) a different number may be specified by the company in relation to different awards, and
 - (b) the following provisions apply to the plan.
- (3) The plan must require partnership share agreements to contain an undertaking by the company to notify the employee of any restriction on the number of shares to be included in an award.
- (4) The plan must require the notice to be given—
- (a) if there is no accumulation period, before the deduction of the partnership share money relating to the award, and
 - (b) if there is an accumulation period, before the beginning of the accumulation period relating to the award.
- (5) The plan must provide that, where the award maximum in respect of an award of partnership shares is smaller than the number of shares which would otherwise be included in the award, the number of partnership shares acquired on behalf of each employee under paragraph 50(1) or 52(2) must be reduced proportionately.

Stopping and re-starting deductions

- 54 (1) The plan must provide that an employee may at any time give notice to the company to stop deductions under a partnership share agreement.
- (2) The plan must provide that, unless a later date is specified in the notice, the company must, on receiving a notice within sub-paragraph (1), ensure within 30 days after receipt of the notice that no further deductions are made by it under the partnership share agreement.
- (3) The plan must also provide that an employee who has stopped deductions—
- (a) may subsequently give notice to the company to re-start deductions under the agreement, but
 - (b) may not make up deductions that have been missed.

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- (4) If the plan makes provision for one or more accumulation periods, it may prevent an employee re-starting deductions more than once in any accumulation period.
- (5) The plan must provide that, unless a later date is specified in the notice, the company must, on receiving a notice within sub-paragraph (3), re-start deductions under the partnership share agreement not later than the re-start date.
- (6) “The re-start date” means the date of the first deduction due under the partnership share agreement more than 30 days after receipt of the notice under sub-paragraph (3).
- (7) In this paragraph “notice” means notice in writing.

Withdrawal from partnership share agreement

- 55
- (1) The plan must provide that an employee may at any time give notice to the company of the employee’s withdrawal from a partnership share agreement.
 - (2) The plan must provide that, unless a later date is specified in the notice, a notice of withdrawal takes effect 30 days after it is received by the company.
 - (3) The plan must provide that, where an employee withdraws from a partnership share agreement, any partnership share money held on behalf of the employee is to be paid over to the employee as soon as practicable.
 - (4) In this paragraph “notice” means notice in writing.

Repayment of partnership share money on withdrawal of approval or termination

- 56
- (1) The plan must provide that, where the approval of the plan is withdrawn (see paragraph 83), any partnership share money held on behalf of an employee is to be paid over to the employee.
 - (2) The plan must require the payment to be made as soon as practicable after notice of the withdrawal of approval is given to the company.
 - (3) The plan must provide that, where a plan termination notice is issued in respect of the plan (see paragraph 90), any partnership share money held on behalf of an employee is to be paid over to the employee.
 - (4) The plan must require the payment to be made as soon as practicable after the plan termination notice is notified to the trustees under paragraph 89(2).

Access to partnership shares

- 57
- (1) The plan must provide that when partnership shares have been awarded to an employee, the employee may at any time withdraw any or all of the partnership shares from the plan.
 - (2) If the employee does so, there may be a charge to tax by virtue of section 506 (charge on partnership shares ceasing to be subject to plan).

PART 7

MATCHING SHARES

Matching shares: introduction

- 58 If a SIP provides for matching shares it must meet the plan requirements contained in—
- paragraph 59 (general requirements for matching shares),
 - paragraph 60 (ratio of matching shares to partnership shares), and
 - paragraph 61 (holding period for matching shares).

General requirements for matching shares

- 59 (1) The plan must provide for the matching shares to be—
- (a) shares of the same class and carrying the same rights as the partnership shares to which they relate;
 - (b) awarded on the same day as the partnership shares to which they relate are awarded; and
 - (c) awarded to all employees who participate in the award on exactly the same basis.
- (2) Sub-paragraph (1) is subject to paragraph 32 (permitted restrictions: provision for forfeiture).

Ratio of matching shares to partnership shares

- 60 (1) The partnership share agreement must specify—
- (a) the ratio of matching shares to partnership shares for the time being offered by the company, and
 - (b) the circumstances and manner in which the ratio may be changed by the company.
- (2) The ratio must not exceed 2:1 and must be applied by reference to the number of shares.
- (3) A partnership share agreement must provide for the employee to be informed by the company if the ratio offered by the company changes before partnership shares are awarded to the employee under the agreement.

Holding period for matching shares

- 61 Paragraphs 36 and 37 (the holding period and related matters) apply in relation to matching shares as they apply in relation to free shares.

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PART 8

CASH DIVIDENDS AND DIVIDEND SHARES

Reinvestment of cash dividends

- 62 (1) A SIP may provide that, where the company so directs, the trustees must apply all cash dividends in respect of plan shares held on behalf of—
- (a) all participants, or
 - (b) all participants who elect to reinvest their dividends, in acquiring further shares on their behalf.
- (2) Sub-paragraph (1) is subject to paragraph 63 (requirements to be met as regards cash dividends).
- (3) In the SIP code—
- (a) the application of cash dividends as mentioned in sub-paragraph (1) is referred to as “reinvestment”; and
 - (b) the further plan shares acquired are referred to as “dividend shares”.
- (4) The company may revoke a direction requiring the reinvestment of cash dividends.
- (5) References in the SIP code to the trustees acquiring dividend shares on behalf of a participant include their appropriating to a participant shares already held by them.

Requirements to be met as regards cash dividends

- 63 (1) If a SIP makes the provision authorised by paragraph 62(1) (reinvestment of cash dividends), the following paragraphs apply—
- paragraph 64 (limit on amount reinvested),
 - paragraph 65 (general requirements as to dividend shares),
 - paragraph 66 (acquisition of dividend shares),
 - paragraph 67 (holding period for dividend shares), and
 - paragraph 68 (reinvestment: amounts to be carried forward).
- (2) The plan must meet any plan requirements contained in those paragraphs.
- (3) A SIP must in any event meet the plan requirement contained in paragraph 69 (cash dividends not required to be reinvested).

Limit on amount reinvested

- 64 (1) The plan must provide that the total dividend reinvestment in respect of a participant must not exceed £1,500 in a tax year.
- (2) For this purpose “the total dividend reinvestment” in respect of a participant is the sum of—
- (a) the amount applied by the trustees in acquiring dividend shares on behalf of the participant under the plan, and
 - (b) the amount applied in acquiring dividend shares on behalf of the participant by the trustees of other approved SIPs that are established by the company or an associated company.

- (3) If the amounts received by the trustees exceed the limit in sub-paragraph (1), the plan must provide for the balance to be paid over to the participant as soon as practicable.

General requirements as to dividend shares

- 65 The plan must provide that dividend shares are to be shares—
- (a) which are in the same company and of the same class, and carry the same rights, as the shares in respect of which the dividend is paid, and
 - (b) which are not subject to any provision for forfeiture.

Acquisition of dividend shares

- 66 (1) The plan must provide that the trustees must treat participants fairly and equally in exercising their powers in relation to the acquisition of dividend shares.
- (2) The plan must provide for the trustees to acquire dividend shares on behalf of participants on the acquisition date.
- (3) The number of dividend shares acquired on behalf of each participant must be determined in accordance with the market value of the shares on the acquisition date.
- (4) In this paragraph “the acquisition date” means the date set by the trustees for the acquisition of dividend shares and falling not later than 30 days after the dividend is received by them.

Holding period for dividend shares

- 67 Paragraphs 36 and 37 (the holding period and related matters) apply in relation to dividend shares as they apply in relation to free shares, except that the holding period must be 3 years.

Reinvestment: amounts to be carried forward

- 68 (1) This paragraph applies where an amount is not reinvested—
- (a) because the amount of the cash dividend to which the participant is entitled is not sufficient to acquire a share, or
 - (b) because there is an amount remaining after acquiring one or more dividend shares on the participant’s behalf.
- (2) The amount may be retained by the trustees and carried forward to be added to the amount of the next cash dividend to be reinvested.
- (3) If so retained, the trustees must hold the amount so as to be separately identifiable for the purposes of sub-paragraphs (4) and (5).
- (4) An amount retained under this paragraph must be paid over to the participant—
- (a) if or to the extent that it is not reinvested within the period of 3 years beginning with the date on which the dividend was paid, or
 - (b) if during that period the participant ceases to be in relevant employment (see paragraph 95), or
 - (c) if during that period a plan termination notice is issued in respect of the plan (see paragraph 90).

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- (5) An amount required to be paid over to the participant under sub-paragraph (4) must be paid over as soon as practicable.
- (6) For the purposes of this paragraph an amount carried forward under this paragraph derived from an earlier cash dividend is to be treated as reinvested before an amount derived from a later cash dividend.

Cash dividends where no requirement to reinvest

- 69 (1) The plan must require any distributable cash dividends in respect of plan shares held on behalf of a participant to be paid over to the participant as soon as practicable.
- (2) “Distributable cash dividends” means cash dividends which are not required to be reinvested under the plan.

PART 9

TRUSTEES

Requirements etc. relating to trustees: introduction

- 70 (1) A SIP must meet the plan requirements contained in—
 - paragraph 71(1) and (2) (establishment of trustees), and
 - paragraph 79 (meeting by trustees of PAYE obligations).
- (2) The following provisions also relate to the trustees—
 - paragraph 71(3) to (6) (the trust instrument and classes of trustees)
 - paragraph 72 (duty to act in accordance with participant’s directions),
 - paragraph 73 (duty not to dispose of plan shares),
 - paragraph 74 (duty to make payments to participants),
 - paragraph 75 (duty to give notice of award of shares etc.),
 - paragraph 76 (power to borrow),
 - paragraph 77 (power to raise funds to subscribe for rights issue),
 - paragraph 78 (acquisition of shares from employee share ownership trust), and
 - paragraph 80 (other duties in relation to tax liabilities).

Establishment of trustees

- 71 (1) The plan must provide for the establishment of a body of trustees consisting of persons resident in the United Kingdom (“the trustees”).
- (2) The plan must provide that the trustees are required—
 - (a) in the case of free or matching shares, to acquire shares and appropriate them to employees in accordance with the plan,
 - (b) in the case of partnership shares, to apply partnership share money in acquiring shares on behalf of employees in accordance with the plan, and
 - (c) in the case of dividend shares, to apply cash dividends in acquiring shares on behalf of participants in accordance with the plan.

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- (3) The functions of the trustees with respect to shares held by them must be regulated by a trust (“the plan trust”)—
 - (a) which is constituted under the law of a part of the United Kingdom, and
 - (b) the terms of which are embodied in an instrument which complies with the requirements of this Part of this Schedule (“the trust instrument”).
- (4) The trust instrument must not contain any terms which are neither essential nor reasonably incidental to complying with the requirements of this Part of this Schedule.
- (5) The trust instrument may contain terms that—
 - (a) define who is a professional trustee and who is a non-professional trustee;
 - (b) require the trustees to include at least one person who is a professional trustee and at least two who are non-professional trustees;
 - (c) require at least half of the non-professional trustees to have been, before being appointed as trustees, selected in accordance with a specified process of selection;
 - (d) require the trustees so selected to be persons who are employees of the company or, in the case of a group plan, of a participating company.
- (6) The terms mentioned in sub-paragraph (5) are to be regarded as reasonably incidental to complying with the requirements of this Part of this Schedule for the purposes of sub-paragraph (4).

Duty to act in accordance with participant’s directions

- 72
- (1) The trust instrument must require the trustees—
 - (a) to dispose of a participant’s plan shares, and
 - (b) to deal with any right conferred in respect of any of a participant’s plan shares to be allotted other shares, securities or rights of any description,only in accordance with a direction given by or on behalf of the participant.
 - (2) Sub-paragraph (1) is subject to—
 - (a) paragraph 73 (duty not to dispose of plan shares), and
 - (b) any provision in the plan made in accordance with paragraph 79 (meeting by trustees of PAYE obligations).
 - (3) The plan may provide for participants to give such general directions, to such effect and in such terms, as are specified in the plan.

Duty not to dispose of plan shares

- 73
- (1) This paragraph applies to a participant’s plan shares that are free, matching or dividend shares.
 - (2) The trust instrument must prohibit the trustees from disposing of any of those shares (to the participant or otherwise) at any time during the holding period, unless the participant has at that time ceased to be in relevant employment.
 - (3) Sub-paragraph (2) is subject to—
 - (a) paragraph 37 (holding period: power to direct trustees to accept general offers etc.),

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- (b) paragraph 77 (power of trustees to raise funds to subscribe for rights issue),
- (c) paragraph 79 (meeting by trustees of PAYE obligations), and
- (d) paragraph 90(5) (termination of plan: early removal of shares with participant's consent).

Duty to make payments to participants

- 74 (1) The trust instrument must require the trustees to pay over to a participant as soon as practicable—
- (a) any money received by them in respect of, or by reference to, any of the participant's shares, or
 - (b) any money's worth so received unless it consists of new shares within the meaning of paragraph 87 (company reconstructions).
- (2) Sub-paragraph (1) is subject to—
- (a) paragraphs 62 to 69 (cash dividends and dividend shares),
 - (b) the trustees' obligations under sections 510 to 514 (PAYE: shares ceasing to be subject to plan; capital receipts), and
 - (c) the trustees' PAYE obligations.

Duty to give notice of award of shares etc.

- 75 (1) The trust instrument must make the following provision regarding notices.
- (2) It must provide that, as soon as practicable after any free or matching shares have been awarded to an employee, the trustees must give the employee notice of the award—
- (a) specifying the number and description of those shares,
 - (b) stating their market value on the date on which they were awarded to the employee, and
 - (c) stating the holding period applicable to them.
- (3) It must provide that, as soon as practicable after any partnership shares have been awarded to an employee, the trustees must give the employee notice of the award—
- (a) specifying the number and description of those shares,
 - (b) stating the amount of partnership share money applied by the trustees in acquiring the shares on behalf of the employee, and
 - (c) stating their market value on the acquisition date (as defined by paragraph 50(4) or, if there is an accumulation period, by paragraph 52(5)).
- (4) It must provide that, as soon as practicable after any dividend shares have been acquired on behalf of a participant, the trustees must give the participant notice of the acquisition—
- (a) specifying the number and description of those shares,
 - (b) stating their market value on the acquisition date (as defined by paragraph 66(4)),
 - (c) stating the holding period applicable to them, and
 - (d) informing the participant of any amount carried forward under paragraph 68 (reinvestment: amounts to be carried forward).

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- (5) It must provide that, where any foreign cash dividend is received in respect of plan shares held on behalf of a participant, the trustees must give the participant notice of the amount of any foreign tax deducted from the dividend before it was paid.
- (6) In sub-paragraph (5) “foreign cash dividend” means a cash dividend paid in respect of plan shares in a company not resident in the United Kingdom.

Power of trustees to borrow

- 76 The trust instrument may provide that the trustees have power to borrow—
- (a) to acquire shares for the purposes of the plan, and
 - (b) for such other purposes as may be specified in the trust instrument.

Power of trustees to raise funds to subscribe for rights issue

- 77 (1) The trustees may dispose of some of the rights arising under a rights issue in order to be able to obtain sufficient funds to exercise other such rights.
- (2) The power conferred by sub-paragraph (1) is subject to paragraph 72 (duty to act in accordance with participant’s directions).

Acquisition by trustees of shares from employee share ownership trust

- 78 (1) The trust instrument must provide that, where there is a qualifying transfer of shares to the trustees, the shares—
- (a) must not be awarded to participants under the plan as partnership shares, and
 - (b) must be included in any award of free or matching shares made after the date of the transfer in priority to other shares available for inclusion in that award.
- (2) For the purposes of this paragraph there is a qualifying transfer of shares to the trustees if—
- (a) relevant shares (as defined by section 69(3AC) of FA 1989) are transferred to them by the trustees of an employee share ownership trust, and
 - (b) the transfer is a qualifying transfer within section 69(3AA) of that Act (transfer of shares in, or shares purchased from money in, an employee share ownership trust immediately before 21st March 2000).

Meeting by trustees of PAYE obligations

- 79 (1) The plan must make provision to ensure that, where a PAYE obligation is imposed on the trustees as a result of any of a participant’s plan shares ceasing to be subject to the plan, the trustees are able to meet that obligation—
- (a) by disposing of any of those shares, or
 - (b) if there are any remaining plan shares of the participant, by disposing of any of those shares, or
 - (c) by the participant paying to the trustees a sum equal to the amount required to discharge the obligation.
- (2) A “PAYE obligation” includes an obligation under any of sections 510 to 512 (PAYE: shares ceasing to be subject to the plan).

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- (3) For the purposes of sub-paragraph (1) any reference to the trustees disposing of shares includes a reference to their acquiring the shares as trustees for the purposes of the trust.
- (4) A disposal of any of the participant’s plan shares in accordance with provision made under sub-paragraph (1)(b) may give rise to a charge to tax under—
 - section 505 (charge on free or matching shares ceasing to be subject to plan),
 - section 506 (charge on partnership shares ceasing to be subject to plan), or
 - section 68B(2) or 251C(1) of ICTA (charge under Case V of Schedule D or Schedule F on dividend shares ceasing to be subject to plan).

Other duties of trustees in relation to tax liabilities

- 80 (1) The trust instrument must require the trustees to maintain such records as may be necessary for the purposes of—
- (a) their own PAYE obligations, or
 - (b) the PAYE obligations of the employer company so far as they relate to the plan.
- (2) In sub-paragraph (1)—
- “PAYE obligations”, in relation to the trustees, includes obligations under sections 510 to 514 (PAYE: shares ceasing to be subject to plan and capital receipts);
 - “the employer company” has the same meaning as in section 513.
- (3) The trust instrument must require the trustees, where the participant becomes liable to income tax under—
- (a) this Act, or
 - (b) Case V of Schedule D or Schedule F,
- by reason of the occurrence of any event, to inform the participant of any facts relevant to determining that liability.
- (4) Section 234A(4) to (11) of ICTA (information relating to distributions to be provided by nominee) applies in relation to—
- (a) the balance of any cash dividend paid over to the participant under paragraph 64(3),
 - (b) any amount paid over to a participant under paragraph 68(4) (dividend retained for reinvestment and later paid out), or
 - (c) any relevant dividend (see sub-paragraph (5)),
- as if it were a payment to which section 234A(4)(b) applied (and, in the case of an amount within paragraph (b) above, as if the cash dividend had been paid at the time of the payment to the participant under paragraph 68(4)).
- (5) In a case where dividend shares cease to be subject to the plan before the end of the period of 3 years beginning with the date on which they were acquired on a participant’s behalf, the cash dividend applied to acquire dividend shares on the participant’s behalf is a “relevant dividend” for the purposes of sub-paragraph (4)(c).

PART 10

APPROVAL OF PLANS

Application for approval

- 81 (1) Where—
- (a) a SIP has been established, and
 - (b) the company makes an application to the Inland Revenue for approval of the plan,
- the Inland Revenue must approve the plan if they are satisfied that it meets the requirements of Parts 2 to 9 of this Schedule.
- (2) An application for approval must—
- (a) be in writing, and
 - (b) contain such particulars, and be supported by such evidence, as the Inland Revenue may require.
- (3) Once the Inland Revenue have decided whether or not to approve the plan, they must give notice of their decision to the company.

Appeal against refusal of approval

- 82 (1) If the Inland Revenue refuse to approve the plan, the company may appeal to the Special Commissioners.
- (2) The notice of appeal must be given to the Inland Revenue within 30 days after the date on which notice of their decision is given to the company.
- (3) If the Special Commissioners allow the appeal, they may direct the Inland Revenue to approve the plan with effect from a date specified by the Commissioners.
- (4) The date so specified must not be earlier than that of the application for approval.

Withdrawal of approval

- 83 (1) This paragraph applies if a disqualifying event (see paragraph 84) occurs in relation to an approved SIP.
- (2) The Inland Revenue may by a notice given to the company withdraw the approval with effect from—
- (a) the time at which the disqualifying event occurred, or
 - (b) a later time specified by the Inland Revenue in the notice.
- (3) The withdrawal of approval of a SIP does not affect the operation of the SIP code in relation to shares awarded to participants in the plan before the time with effect from which approval was withdrawn.
- (4) References in the SIP code to an approved SIP in relation to such shares are to a plan that was approved at the time when the shares were awarded.

Disqualifying events for purposes of paragraph 83

- 84 (1) The following are disqualifying events for the purposes of paragraph 83—

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- (a) a contravention in relation to the operation of the plan of any of the requirements of this Schedule, the plan itself or the plan trust;
 - (b) an alteration being made in a key feature of the plan, or in the terms of the plan trust, without the approval of the Inland Revenue;
 - (c) if the plan provides for performance allowances in accordance with paragraph 42 (method two), the setting of performance targets in respect of an award of shares which are not consistent targets (within the meaning given by paragraph 42(6));
 - (d) an alteration being made in the share capital of the company whose shares are the subject of the plan, or in the rights attaching to any shares of that company, that materially affects the value of participants' plan shares;
 - (e) shares of a class of which shares have been awarded to participants receiving different treatment in any respect from the other shares of that class;
 - (f) the trustees failing to furnish any information which they are required to furnish under paragraph 93 (power to require information);
 - (g) the company, or (in the case of a group plan) a company which is or has been a constituent company, failing to furnish any information which it is required to furnish under that paragraph.
- (2) For the purposes of sub-paragraph (1)(b) the Inland Revenue may not withhold their approval unless it appears to them at the time in question that the plan as proposed to be altered would not then be approved on an application under paragraph 81.
- (3) Sub-paragraph (1)(e) applies, in particular, to different treatment in respect of—
- (a) the dividend payable,
 - (b) repayment,
 - (c) the restrictions attaching to the shares, or
 - (d) any offer of substituted or additional shares, securities or rights of any description in respect of the shares.
- (4) Sub-paragraph (1)(e) does not, however, apply where the difference in treatment arises—
- (a) from a key feature of the plan, or
 - (b) from any of the participants' shares being subject to any provision for forfeiture.
- (5) Nor does it apply as a result only of the fact that shares which have been newly issued receive, in respect of dividends payable with respect to a period beginning before the date on which they were issued, treatment less favourable than that accorded to shares issued before that date.
- (6) For the purposes of this paragraph a “key feature” of a plan is a provision of the plan that is necessary in order to meet the requirements of this Schedule.

Appeal against withdrawal of approval

- 85 (1) This paragraph applies if a SIP has been approved by the Inland Revenue and they decide—
- (a) to withdraw approval of the plan, or
 - (b) to refuse approval under paragraph 84(1)(b) (approval of alteration of plan or plan trust), or

- (c) to give a direction under paragraph 11 of Schedule 4AA to ICTA (withdrawal of corporation tax deductions on withdrawal of approval).
- (2) The company may appeal against the decision to the Special Commissioners.
- (3) The notice of appeal must be given to the Inland Revenue within 30 days after the date on which notice of their decision is given to the company.

PART 11

SUPPLEMENTARY PROVISIONS

Company reconstructions

- 86 (1) In this Part of this Schedule a “company reconstruction” means a transaction to which this paragraph applies.
- (2) This paragraph applies to a transaction which occurs in relation to any of a participant’s plan shares (“the original holding”) and—
- (a) results in a new holding being equated with the original holding for the purposes of capital gains tax, or
 - (b) would have that result but for the fact that what would be the new holding consists of or includes a qualifying corporate bond.
- (3) But where an excluded issue of shares is made—
- (a) that issue of shares does not by itself count as a transaction within sub-paragraph (2); and
 - (b) if made as part of a transaction within that sub-paragraph (that is, as part of a company reconstruction), the shares issued are to be regarded as not forming part of the new holding.
- (4) An “excluded issue of shares” means an issue of shares of any of the following descriptions (in respect of which a charge to income tax arises)—
- (a) redeemable shares or securities issued as mentioned in section 209(2)(c) of ICTA (distributions);
 - (b) share capital issued in circumstances such that section 210(1) of ICTA (bonus issues) applies;
 - (c) share capital to which section 249 of ICTA (stock dividends) applies.

Consequences of company reconstructions

- 87 (1) In the SIP code references to a participant’s plan shares in relation to a SIP are to be read, after the time of a company reconstruction—
- (a) as referring to the new shares, or
 - (b) as including those shares,
- as the case may be.
- This is subject to the following provisions of this paragraph.
- (2) For the purposes of the SIP code—
- (a) a company reconstruction is to be treated as not involving a disposal of the shares comprised in the original holding;

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- (b) new shares are to be treated as having been awarded to the participant on the date on which the corresponding old shares were awarded;
 - (c) the conditions in Part 4 of this Schedule (types of share that may be awarded) are to be treated as fulfilled with respect to any new shares if they were (or were treated as) fulfilled with respect to the corresponding old shares; and
 - (d) the provisions of—
 - (i) sections 489 to 514 (SIPs: income tax advantages and charges under this Act),
 - (ii) sections 68A to 68C and 251A to 251D of ICTA (SIPs: charges to tax under Case V of Schedule D or Schedule F),
 - (iii) sections 686B and 686C of ICTA (SIPs: income tax advantages for trustees), and
 - (iv) Part 1 of Schedule 7D to TCGA 1992 (SIPs: capital gains tax),
 apply in relation to the new shares as they would have applied in relation to the corresponding old shares.
- (3) If the corresponding old shares were dividend shares, the reference in sub-paragraph (2)(b) to the corresponding old shares being awarded is a reference to those shares being acquired on behalf of the participant.
- (4) Sub-paragraphs (1) to (3) are subject to paragraph 88 (treatment of shares acquired under rights issue).
- (5) For the purposes of the SIP code if, as part of a company reconstruction, trustees become entitled to a capital receipt, their entitlement to the capital receipt is to be taken to arise before the new holding comes into being.
- (6) In the SIP code, in the context of a new holding, “shares” includes securities and rights of any description which form part of the new holding for the purposes of Chapter 2 of Part 4 of TCGA 1992 (reorganisation of share capital etc.).
- (7) In this paragraph—
- (a) “new shares” means shares comprised in the new holding which were issued in respect of, or otherwise represent, shares comprised in the original holding;
 - (b) “the new holding” and “the original holding” mean respectively the new and original holdings mentioned in paragraph 86(2);
 - (c) “corresponding old shares”, in relation to any new shares, means the shares in respect of which the new shares are issued or which the new shares otherwise represent.

Treatment of shares acquired under rights issue

- 88 (1) This paragraph applies for the purposes of the SIP code where the trustees exercise rights arising under a rights issue and conferred in respect of a participant’s plan shares.
- (2) In such a case, any shares or securities or rights allotted are to be treated as if they were plan shares—
- (a) identical to the shares in respect of which the rights were conferred, and
 - (b) appropriated to, or acquired on behalf of, the participant under the plan in the same way and at the same time as those shares.

- (3) If, however, either of the conditions set out in sub-paragraph (4) is met, sub-paragraph (5) applies instead.
- (4) The conditions are—
 - (a) that the funds used by the trustees to exercise the rights are not provided by the exercise of the trustees' powers under paragraph 77 (trustees' powers to raise funds to subscribe for rights issue);
 - (b) that similar rights are not conferred in respect of all ordinary shares in the company.
- (5) If either of those conditions is met—
 - (a) any shares, securities or rights allotted are not plan shares, and
 - (b) sections 127 to 130 of TCGA 1992 (reorganisation of share capital etc.) do not apply in relation to them.

Termination of plan

- 89
- (1) The plan may provide for the company to issue a plan termination notice in respect of the plan in circumstances specified in the plan.
 - (2) The plan must provide that, where a plan termination notice is issued, a copy of the notice must be given, without delay, to—
 - (a) the Inland Revenue,
 - (b) the trustees,
 - (c) each individual who has plan shares, and
 - (d) each individual who has entered into a partnership share agreement which was in force immediately before the notice was issued.

Effect of plan termination notice

- 90
- (1) This paragraph applies if the company has issued a plan termination notice under paragraph 89.
 - (2) No further shares may be awarded to individuals under the plan.
 - (3) The trustees must remove the plan shares from the plan as soon as practicable after whichever is the later of—
 - (a) the end of the notice period, or
 - (b) the first date on which the shares may be removed from the plan without giving rise to a charge to income tax under sections 501 to 507 (SIPs: tax charges) on the participant on whose behalf they are held.
 - (4) In sub-paragraph (3) “the notice period” means the period of 3 months beginning with the date on which the requirements imposed by the plan in accordance with paragraph 89(2) are met in respect of the plan termination notice.
 - (5) The trustees may remove a participant’s shares from the plan at an earlier date with the participant’s consent.
 - (6) Any consent given by the participant before receiving a copy of the plan termination notice is to be disregarded for the purposes of sub-paragraph (5).

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- (7) As soon as practicable after the plan termination notice is issued, the trustees must pay any money held on an individual's behalf to the individual.
- (8) In this paragraph references to the trustees removing the plan shares from the plan are to their doing the following in the case of each participant—
 - (a) transferring the shares to the participant on behalf of whom they are held, or to another person, at the participant's direction, or
 - (b) disposing of the shares and accounting (or holding themselves ready to account) for the proceeds to the participant or to another person at the participant's direction.
- (9) Where a participant has died, the references in this paragraph to a participant are to the participant's personal representatives.

Jointly owned companies

- 91 (1) This paragraph applies for the purposes of the provisions of the SIP code relating to group plans.
- (2) Each joint owner of a jointly owned company is to be treated as controlling every company within sub-paragraph (3).
- (3) The companies within this sub-paragraph are—
- (a) the jointly owned company, and
 - (b) any company controlled by that company.
- (4) However, no company within sub-paragraph (3) may be—
- (a) a constituent company in more than one group plan, or
 - (b) a constituent company in a particular group plan if another company within that sub-paragraph is a constituent company in a different group plan.
- (5) In this paragraph a “jointly owned company” means a company—
- (a) of which 50% of the issued share capital is owned by one person and 50% by another, and
 - (b) which is not controlled by any one person.
- (6) This paragraph does not apply for the purposes of paragraph 27(1)(b) (requirement that plan shares are in a company not under another company's control).

Determination of market value

- 92 (1) For the purposes of the SIP code the “market value” of shares has the same meaning as it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act.
- (2) Sub-paragraph (1) is subject to paragraph 35(3) (determination of value of shares subject to restrictions or risk of forfeiture).
- (3) Where the market value of shares on any date has to be determined for the purposes of the SIP code, the Inland Revenue and the trustees may agree that it is to be determined by reference—
- (a) to a date or dates, or
 - (b) to an average of the values on a number of dates, stated in the agreement.

Power to require information

- 93 (1) The Inland Revenue may by notice require a person to provide them with information—
- (a) which they reasonably require for the performance of their functions under the SIP code, and
 - (b) which the person to whom the notice is addressed has or can reasonably obtain.
- (2) The power conferred by this paragraph extends, in particular, to—
- (a) information to enable the Inland Revenue—
 - (i) to decide whether to approve a SIP or to withdraw an approval already given, or
 - (ii) to determine the liability to tax, including capital gains tax, of any person who has participated in a plan, and
 - (b) information about the administration of a plan and any proposed alteration of the terms of a plan.
- (3) The notice must require the information to be provided within a specified period, which must not end earlier than 3 months after the date when the notice is given.

Meaning of “associated company”

- 94 (1) For the purposes of the SIP code one company is an “associated company” of another company at a given time if—
- (a) one has control of the other, or
 - (b) both are under the control of the same person or persons.
- (2) Sub-paragraph (1) does not, however, apply for the purposes of paragraph 29 (prohibited shares).
- (3) For the purposes of sub-paragraph (1) the question whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA.

Meaning of participant ceasing to be in relevant employment

- 95 (1) This paragraph explains what is meant, for the purposes of the SIP code, by a participant ceasing to be in relevant employment.
- (2) For the purposes of the SIP code “relevant employment” means employment by the company or any associated company.
- (3) A participant who remains in the employment of the company or any associated company does not cease to be in relevant employment.

Meaning of shares being withdrawn from plan

- 96 (1) For the purposes of the SIP code plan shares are withdrawn from a SIP when—
- (a) they are transferred by the trustees to the participant, or another person, on the direction of the participant,
 - (b) the participant assigns, charges or otherwise disposes of the beneficial interest in the shares, or

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- (c) they are disposed of by the trustees, on the direction of the participant, in circumstances where the trustees account (or hold themselves ready to account) for the proceeds to the participant or to another person.
- (2) Where the participant has died, the references in sub-paragraph (1) to the participant are to the participant’s personal representatives.

Meaning of shares ceasing to be subject to plan

- 97 (1) For the purposes of the SIP code plan shares cease to be subject to a SIP when—
- (a) they are withdrawn from the plan,
 - (b) the participant to whom the shares were awarded ceases to be in relevant employment at a time when the shares are subject to the plan, or
 - (c) the trustees dispose of the shares under provision made in accordance with paragraph 79 (meeting by trustees of PAYE obligations).
- (2) If an individual—
- (a) participates in an award of partnership shares, and
 - (b) ceases to be in relevant employment at any time during the acquisition period relating to that award,
- the individual is to be treated for the purposes of this paragraph as ceasing to be in relevant employment immediately after the shares are awarded.
- (3) In sub-paragraph (2) “the acquisition period” in relation to an award means—
- (a) where there was no accumulation period, the period beginning with the deduction of the partnership share money and ending with the acquisition date (as defined by paragraph 50(4)), and
 - (b) where there was an accumulation period, the period beginning with the end of that period and ending immediately before the acquisition date (as defined by paragraph 52(5)).
- (4) If a participant ceases to be in relevant employment, the participant’s plan shares are to be treated as ceasing to be subject to the plan on the date of leaving.

Meaning of “the specified retirement age”

- 98 (1) In the SIP code, in relation to a SIP, “the specified retirement age” means the retirement age specified in the plan.
- (2) The age so specified—
- (a) must be the same for men and women, and
 - (b) must not be less than 50.

Minor definitions

- 99 (1) In the SIP code—
- “articles of association”, in relation to a company, includes any other written agreement between the shareholders of the company;
 - “company” means a body corporate;
 - “group of companies” means a company and any other companies of which it has control, and “group company” has a corresponding meaning;

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“participant’s plan shares”, in relation to a SIP, means plan shares that have been awarded to an individual participant;

“PAYE obligations” means (subject to paragraphs 79(2) and 80(2)) obligations of any person under—

- (a) Part 11 of this Act, or
- (b) PAYE regulations;

“plan shares”, in relation to a SIP, means—

- (a) free, partnership or matching shares which have been awarded to participants under the plan,
- (b) dividend shares which have been acquired on behalf of participants under the plan, and
- (c) shares in relation to which paragraph 87(1) applies (company reconstructions: new shares),

and which (in each case) remain subject to the plan;

“provision for forfeiture” means a provision to the effect that a participant ceases to be beneficially entitled to shares on the occurrence of certain events, and “forfeiture” is to be read accordingly;

“qualifying corporate bond” has the meaning given by section 117 of TCGA 1992;

“redundancy” has the same meaning as in ERA 1996 or ER(NI)O 1996;

“rights arising under a rights issue” means rights conferred in respect of a participant’s plan shares to be allotted, on payment, other shares or securities or rights of any description in the same company.

- (2) For the purposes of the SIP code references to “shares” include fractions of shares forming part of the share capital of a company registered in a foreign country the law of which recognises such fractions.
- (3) For the purposes of the SIP code a company is a member of a consortium owning another company if it is one of a number of companies—
 - (a) which between them beneficially own not less than 75% of the other company’s ordinary share capital, and
 - (b) each of which beneficially owns not less than 5% of that capital.

Index of defined expressions

100 In the SIP code the following expressions are defined or otherwise explained by the provisions indicated below:

accumulation period	paragraph 51
approval, approved	section 488(4) (and see paragraph 83(4))
articles of association	paragraph 99(1)
associated company	paragraph 94 (and see paragraph 29(3))
award of shares	paragraph 5(1)
the Board of Inland Revenue	section 720(2)
building society	section 832(1) of ICTA

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ceasing to be in relevant employment (in relation to a participant)	paragraph 95
ceasing to be subject to plan (in relation to shares)	paragraph 97
child	section 832(5) of ICTA (and see section 721(6))
close company	section 832(1) of ICTA (and see paragraph 20(4))
company	paragraph 99(1)
the company (in relation to a SIP)	paragraph 2(2)
company reconstruction (in Part 11 of this Schedule)	paragraph 86(1)
connected person	section 718
consortium (member of)	paragraph 99(3)
constituent company	paragraph 4(3)
control	section 719 (and see paragraphs 29(5), 37(6) and 94(3))
distribution	section 832(1) of ICTA
dividend shares	paragraph 62(3)(b)
earnings	section 62 and see section 721(7)
eligible shares (in Part 4 of this Schedule)	paragraph 25(2)
employee, employed, employer and employment	section 4
the employment requirement	paragraph 15(3)
forfeiture, provision for	paragraph 99(1)
free shares	paragraph 2(1)(a)
group company	paragraph 99(1)
group of companies	paragraph 99(1)
group plan	paragraph 4(2)
holding period	paragraph 36 (and see paragraph 67)
the Inland Revenue	section 720(1)
market value (of shares)	paragraph 92
matching shares	paragraph 3(1)
notice (except in paragraph 54 or 55)	section 832(1) of ICTA
ordinary share capital	section 832(1) of ICTA
parent company	paragraph 4(1)
participant (in relation to a SIP)	paragraph 5(4)

Status: This is the original version (as it was originally enacted).

participant's plan shares	paragraph 99(1) (and see paragraph 87(1))
participation in an award of shares	paragraph 5(3)
partnership share agreement	paragraph 44
partnership share money	paragraph 45(2)
partnership shares	paragraph 2(1)(b)
PAYE deduction	section 488(4)
PAYE obligations	paragraph 99(1)
PAYE regulations	section 684(8)
performance allowances	paragraph 34(4)
personal representatives	section 721(1)
plan requirements (in relation to a SIP)	paragraph 2(2)
plan shares (in relation to a SIP)	paragraph 99(1) (and see paragraphs 86 to 88)
the plan trust	paragraph 71(3)
provision for forfeiture	paragraph 99(1)
qualifying corporate bond	paragraph 99(1)
qualifying employee	paragraph 8(6)
recognised stock exchange	section 841 of ICTA
redundancy	paragraph 99(1)
reinvestment	paragraph 62(3)(a)
relevant employment	paragraph 95(2)
rights arising under a rights issue	paragraph 99(1)
salary	paragraph 43(4)
share incentive plan ("SIP")	section 488(4)
shares	paragraph 99(2) (and in the context of a new holding, paragraph 87(6))
the SIP code	section 488(3)
Special Commissioners	section 4 of TMA 1970
the specified retirement age	paragraph 98(1)
tax	section 832(3) of ICTA
tax year	section 721(1)
the trustees	paragraphs 2(2), 71(1)
the trust instrument	paragraph 71(3)
withdrawal of shares from plan	paragraph 96(1)
