

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 6. (See end of Document for details)

SCHEDULES

SCHEDULE 4

^{F1}... CSOP SCHEMES

Textual Amendments

- F1** Word in [Sch. 4](#) title omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 164, 204](#) (with [Sch. 8 paras. 205-215](#))

PART 6

EXCHANGE OF SHARE OPTIONS

Exchange of options on company reorganisation

- 26 (1) A CSOP scheme may provide that if—
- (a) there is a company reorganisation affecting a scheme company (that is, a company whose shares may be acquired by the exercise of share options obtained under the scheme: see paragraph 16), and
 - (b) a participant has obtained share options under the scheme which are to acquire shares of the scheme company (“the old options”),
- the participant may agree with the acquiring company to release the old options in consideration of the participant being granted new share options.
- (2) For the purposes of this paragraph there is a company reorganisation affecting a scheme company if another company (“the acquiring company”)—
- (a) obtains control of the scheme company—
 - (i) as a result of making a general offer to acquire the whole of the issued ordinary share capital of the scheme company which is made on a condition such that, if it is met, the person making the offer will have control of that company, or
 - (ii) as a result of making a general offer to acquire all the shares in the scheme company which are of the same class as those subject to the old options;
 - ^{F1}(b) obtains control of the scheme company as a result of a compromise or arrangement sanctioned by the court under section 899 [^{F2}or 901F] of the Companies Act 2006 (court sanction for compromise or arrangement);]
 - ^{F3}(ba) obtains control of the scheme company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it; or]

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- [^{F4}(c) becomes bound or entitled to acquire shares in the scheme company under sections 979 to 982 [^{F5}or 983 to 985] of the Companies Act 2006 (takeover offers: right of offeror to buy out minority shareholder [^{F6}etc]).]
- [^{F7}(2A) In sub-paragraph (2)(a)(i) the reference to the issued ordinary share capital of the scheme company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (2)(a)(ii) the reference to the shares in the scheme company does not include any shares already held by the person making the offer or a person connected with that person.
- (2B) For the purposes of sub-paragraph (2)(a)(i) and (ii) it does not matter if the general offer is made to different shareholders by different means.]
- (3) A scheme that makes provision under sub-paragraph (1) must require the agreement referred to in that sub-paragraph to be made—
- (a) where control is obtained in the way set out in sub-paragraph (2)(a)(i) or (ii), within the period of 6 months beginning with the time when the acquiring company obtains control and any condition subject to which the offer is made is met,
 - (b) where control is obtained in the way set out in sub-paragraph (2)(b), within the period of 6 months beginning with the time when the court sanctions the compromise or arrangement, ^{F8}...
- [^{F9}(ba) where control is obtained in the way set out in sub-paragraph (2)(ba), within the period of 6 months beginning with the date on which the non-UK company reorganisation arrangement becomes binding on the shareholders covered by it, and]
- (c) where sub-paragraph (2)(c) applies, within the period during which the acquiring company remains bound or entitled as mentioned in that provision.

Textual Amendments

- F1** Sch. 4 para. 26(2)(b) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008](#) (S.I. 2008/954), arts. 1(1), **33** (with art. 4)
- F2** Words in Sch. 4 para. 26(2)(b) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020](#) (c. 12), s. 49(1), **Sch. 9 para. 25(3)** (with ss. 2(2), 5(2))
- F3** Sch. 4 para. 26(2)(ba) inserted (6.4.2014) by [Finance Act 2014](#) (c. 26), **Sch. 8 paras. 177(2)**, 204 (with Sch. 8 paras. 205-215)
- F4** Sch. 4 para. 26(2)(c) substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007](#) (S.I. 2007/2194), **Sch. 4 para. 100** (with art. 12)
- F5** Words in Sch. 4 para. 26(2)(c) inserted (17.7.2013) by [Finance Act 2013](#) (c. 29), **Sch. 2 para. 30(2)(a)** (with Sch. 2 para. 30(4))
- F6** Word in Sch. 4 para. 26(2)(c) inserted (17.7.2013) by [Finance Act 2013](#) (c. 29), **Sch. 2 para. 30(2)(b)** (with Sch. 2 para. 30(4))
- F7** Sch. 4 para. 26(2A)(2B) inserted (17.7.2013) by [Finance Act 2013](#) (c. 29), **Sch. 2 para. 30(3)** (with Sch. 2 para. 30(4))
- F8** Word in Sch. 4 para. 26(3) omitted (6.4.2014) by virtue of [Finance Act 2014](#) (c. 26), **Sch. 8 paras. 177(3)**, 204 (with Sch. 8 paras. 205-215)
- F9** Sch. 4 para. 26(3)(ba) inserted (6.4.2014) by [Finance Act 2014](#) (c. 26), **Sch. 8 paras. 177(3)**, 204 (with Sch. 8 paras. 205-215)

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Requirements about share options granted in exchange

- 27 (1) This paragraph applies to a scheme that makes provision under paragraph 26 (exchange of options on company reorganisation).
- (2) The scheme must require the new share options to relate to shares in a company which—
- (a) is different from the company whose shares are subject to the old options, and
 - (b) is either the acquiring company itself or some other company within subparagraph (b) or (c) of paragraph 16 (shares must be ordinary shares of certain companies), namely—
 - (i) a company which has control of the scheme organiser, or
 - (ii) a company which is, or has control of a company which is, a member of a consortium owning either the scheme organiser or a company having control of the scheme organiser.
- For this purpose the control in question may be through the medium of the acquiring company.
- (3) The scheme must also require the new share options to be equivalent to the old options.
- (4) For the new options to be regarded as equivalent to the old options—
- (a) the shares to which they relate must meet the conditions in paragraphs 16 to [F10]18] (types of share that may be used),
 - (b) they must be exercisable in the same manner as the old options and subject to the provisions of the scheme as it had effect immediately before the release of the old options,
 - (c) the total market value of the shares subject to the old options immediately before the release of those options by the participant must [F11]be substantially the same as] the total market value, immediately after the grant of the new options to the participant, of the shares subject to those options, and
 - (d) the total amount payable by the participant for the acquisition of shares under the new options must be [F12]substantially the same as] the total amount that would have been so payable under the old options.
- (5) For the purposes of the CSOP code, new share options granted under the terms of a provision included in a scheme under paragraph 26 are to be treated as having been granted at the time when the corresponding old options were granted.
- (6) This also applies for the purposes of the provisions of the scheme in their operation, after the grant of the new options, by virtue of a condition complying with subparagraph (4)(b).
- [F13](7) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction.]
- [F14](8) For the purposes of this paragraph the market value of any shares is to be determined using a methodology agreed by Her Majesty's Revenue and Customs.]

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Textual Amendments

- F10** Word in Sch. 4 para. 27(4)(a) substituted (with effect in accordance with s. 16(8) of the amending Act) by Finance (No. 2) Act 2023 (c. 30), **s. 16(5)** (with s. 16(9)(10))
- F11** Words in Sch. 4 para. 27(4)(c) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 178(2)(a)**, 204 (with Sch. 8 paras. 205-215)
- F12** Words in Sch. 4 para. 27(4)(d) substituted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 178(2)(b)**, 204 (with Sch. 8 paras. 205-215)
- F13** Sch. 4 para. 27(7) inserted (with effect in accordance with Sch. 2 para. 77 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 2 para. 73**
- F14** Sch. 4 para. 27(8) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 178(3)**, 204 (with Sch. 8 paras. 205-215)

Modifications etc. (not altering text)

- C1** Sch. 4 para. 27(5) excluded (24.9.2010 with effect in accordance with s. 39(3)-(9) of the amending Act) by Finance Act 2010 (c. 13), **s. 39(8)**

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