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## SCHEDULES

### SCHEDULE 11

Section 34

#### EMPLOYMENT INCOME PROVIDED THROUGH THIRD PARTIES: LOANS ETC OUTSTANDING ON 5 APRIL 2019

#### PART 1

#### APPLICATION OF PART 7A OF ITEPA 2003

##### *Relevant step*

- 1 (1) A person (“P”) is treated as taking a relevant step for the purposes of Part 7A of ITEPA 2003 if—
- (a) P has made a loan, or a quasi-loan, to a relevant person,
  - (b) the loan or quasi-loan was made on or after [<sup>F1</sup>9 December 2010], and
  - (c) an amount of the loan or quasi-loan is outstanding immediately before the end of 5 April 2019.
- (2) P is treated as taking the step immediately [<sup>F2</sup>before the end of 5 April 2019.]
- (3) Where P is treated by this paragraph as taking a relevant step, references to “the relevant step” in [<sup>F3</sup>sections 554A(1)(e)(i) and (ii) and 554AA(1)(h)(i) and (ii)] of ITEPA 2003 have effect as if they were references to the step of making the loan or, as the case may be, quasi-loan.
- (4) For the purposes of section 554Z3(1) of ITEPA 2003 (value of relevant step), the step is to be treated as involving a sum of money equal to the amount of the loan or quasi-loan that is outstanding at the time P is treated as taking the step.
- (5) Subsections (2) and (3) of section 554C of ITEPA 2003 (“relevant person”) apply for the purposes of this Schedule as they apply for the purposes of that section.
- (6) [<sup>F4</sup>Sub-paragraphs (1) and (2) are] subject to paragraphs 23 and 24 (accelerated payments) [<sup>F5</sup>and paragraph 36A (double taxation: close companies)].
- [<sup>F6</sup>(6A) Sub-paragraph (4) is subject to paragraph 1A(5).]
- (7) For the purposes of this paragraph [<sup>F7</sup>and paragraph 1A], whether an amount of a loan or quasi-loan is outstanding at a particular time—
- (a) is to be determined in accordance with [<sup>F8</sup>paragraphs 3 to 18], and
  - (b) does not depend on the loan or quasi-loan subsisting at that time.
- (8) References in this Schedule and in Part 7A of ITEPA 2003 to a relevant step within paragraph 1 of this Schedule are to be read as references to a relevant step which a person is treated by this paragraph as taking.

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### Textual Amendments

- F1** Words in Sch. 11 para. 1(1)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 15\(1\)](#)
- F2** Words in Sch. 11 para. 1(2) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), Sch. 2 para. 2](#)
- F3** Words in Sch. 11 para. 1(3) substituted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(a\)](#)
- F4** Words in Sch. 11 para. 1(6) substituted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(b\)\(i\)](#)
- F5** Words in Sch. 11 para. 1(6) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), Sch. 1 para. 8\(2\)\(b\)\(ii\)](#)
- F6** Sch. 11 para. 1(6A) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(a\)](#)
- F7** Words in Sch. 11 para. 1(7) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(b\)\(i\)](#)
- F8** Words in Sch. 11 para. 1(7)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(2\)\(b\)\(ii\)](#)

- [<sup>F9</sup>1A (1) This paragraph applies where—
- (a) a person (“P”) is treated as taking a relevant step within paragraph 1 (“the initial step”) by reason of making a loan or quasi-loan, and
  - (b) an election has been made by A for the purposes of this paragraph.
- (2) P is treated as taking two further relevant steps for the purposes of Part 7A of ITEPA 2003.
- (3) P is treated as taking one of the further steps on the first anniversary of the date on which P is treated as taking the initial step.
- (4) P is treated as taking one of the further steps on the second anniversary of the date on which P is treated as taking the initial step.
- (5) For the purposes of section 554Z3(1) of ITEPA 2003 (value of relevant step), the initial step and each of the further steps is to be treated as involving a sum of money equal to one third of the amount of the loan or quasi-loan that is outstanding at the time P is treated as taking the initial step.
- (6) References in this Schedule and in Part 7A of ITEPA 2003 to a relevant step within paragraph 1A of this Schedule are to be read as references to a relevant step which a person is treated by this paragraph as taking.
- (7) An election for the purposes of this paragraph—
- (a) may be made at any time before 1 October 2020, and
  - (b) may be made at a later time if an officer of Revenue and Customs allows it.
- (8) But a person who is under a duty imposed by paragraph 35C of this Schedule or paragraph 22 of Schedule 12 may not make an election for the purposes of this paragraph until that duty has been complied with.
- (9) An election for the purposes of this paragraph may not be revoked.
- (10) A person who has made an election for the purposes of paragraph 1(3A) of Schedule 12 is to be treated as having made an election for the purposes of this paragraph.
- (11) The Commissioners for Her Majesty’s Revenue and Customs may by regulations provide that sub-paragraph (7)(a) applies to a specified class of persons as if the reference to 1 October 2020 were to such later date as is specified.
- (12) In sub-paragraph (11) “specified” means specified in the regulations.]

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### Textual Amendments

**F9** Sch. 11 para. 1A inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 16\(3\)](#)

<sup>F10</sup>1B (1) This paragraph applies where—

- (a) a person is treated as taking a relevant step within paragraph 1 by reason of making a loan or quasi-loan,
- (b) a reasonable case could have been made that for a qualifying tax year (“the relevant year”) A was chargeable to income tax on an amount that was referable to the loan or quasi-loan,
- (c) at a time when an officer of Revenue and Customs had power to recover (from A or any other person) income tax for the relevant year in respect of that amount, a qualifying tax return or two or more qualifying tax returns of the same type taken together contained a reasonable disclosure of the loan or quasi-loan, and
- (d) as at 6 April 2019 an officer of Revenue and Customs had not taken steps to recover (from A or any other person) income tax for the relevant year in respect of that amount.

(2) But this paragraph does not apply if—

- (a) a reasonable case could have been made that for a tax year other than the relevant year (“the alternative year”) A was chargeable to income tax on an amount within sub-paragraph (3), and
- (b) it is the case that—
  - (i) on or before 5 April 2019 an officer of Revenue and Customs took steps to recover (from A or any other person) income tax for the alternative year in respect of that amount, or
  - (ii) the alternative year is not a qualifying tax year.

(3) An amount is within this sub-paragraph if —

- (a) it is the same amount as is mentioned in sub-paragraph (1),
- (b) it is part of the amount mentioned in sub-paragraph (1), or
- (c) it is derived from or represents the whole or part of the amount mentioned in sub-paragraph (1).

(4) Where this paragraph applies, then for the purposes of paragraphs 1(4) and 1A(5) the amount of the loan or quasi-loan that is outstanding is to be taken to be reduced (but not below nil) by the amount mentioned in sub-paragraph (1).

(5) For the purposes of sub-paragraph (1)(c) a qualifying tax return, or two or more qualifying tax returns taken together, contained a reasonable disclosure of the loan or quasi-loan if the return or returns taken together—

- (a) identified the loan or quasi-loan,
- (b) identified the person to whom the loan or quasi-loan was made in a case where the loan or quasi-loan was made to a person other than A,
- (c) identified the relevant arrangements in pursuance of which or in connection with which the loan or quasi-loan was made, and
- (d) provided such other information as was sufficient for it to be apparent that a reasonable case could be made that for the relevant year A was chargeable to income tax on an amount that was referable to the loan or quasi-loan.

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- (6) A reference in sub-paragraph (1)(b), (2) or (5)(d) to A being chargeable to income tax does not include A being chargeable to income tax by reason of section 175 of ITEPA 2003 (benefit of taxable cheap loan treated as earnings).
- (7) In this paragraph—
- “qualifying tax year” means the tax year 2015-16 and any earlier tax year, and
- “qualifying tax return” means —
- (a) a return made by A or B under section 8 of TMA 1970 for a qualifying tax year, and any accompanying accounts, statements or documents, or
- (b) a return made by B under paragraph 3 of Schedule 18 to FA 1998 for an accounting period that commenced before 6 April 2016,
- and a qualifying tax return is of the same type as another if both fall within the same paragraph of this definition.]

#### Textual Amendments

**F10** Sch. 11 para. 1B inserted (22.7.2020) by Finance Act 2020 (c. 14), s. 17(1)

#### *[<sup>F11</sup>Meaning of “loan” and “quasi loan”]*

#### Textual Amendments

**F11** Sch. 11 para. 2 cross-heading substituted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 2 para. 3

- 2 (1) In this Part of this Schedule “loan” includes—
- (a) any form of credit;
- (b) a payment that is purported to be made by way of a loan.
- (2) For the purposes of [<sup>F12</sup>paragraphs 1 and 1A], P makes a “quasi-loan” to a relevant person if (and when) P acquires a right (the “acquired debt”)—
- (a) which is a right to a payment or a transfer of assets, and
- (b) in respect of which the condition in sub-paragraph (3) is met.
- (3) The condition is met in relation to a right if there is a connection (direct or indirect) between the acquisition of the right and—
- (a) a payment made, by way of a loan or otherwise, to the relevant person, or
- (b) a transfer of assets to the relevant person.
- (4) Where a quasi-loan or a loan made by P to a relevant person is replaced, directly or indirectly, by a loan or another loan (the “replacement loan”), references in [<sup>F13</sup>paragraphs 1 and 1A] to the loan are references to the replacement loan.
- (5) Where a loan or a quasi-loan made by P to a relevant person is replaced, directly or indirectly, by a quasi-loan or another quasi-loan (the “replacement quasi-loan”), references in [<sup>F14</sup>paragraphs 1 and 1A] to the quasi-loan are references to the replacement quasi-loan.

<sup>F15</sup>(6) .....

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### Textual Amendments

- F12** Words in Sch. 11 para. 2(2) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 27\(a\)](#)  
**F13** Words in Sch. 11 para. 2(4) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 27\(b\)](#)  
**F14** Words in Sch. 11 para. 2(5) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 27\(c\)](#)  
**F15** Sch. 11 para. 2(6) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 4](#)

### Meaning of “outstanding”: loans

- 3 (1) An amount of a loan is “outstanding” for the purposes of <sup>[F16]</sup>paragraphs 1 and 1A] if the relevant principal amount exceeds the repayment amount.
- (2) In sub-paragraph (1) “relevant principal amount”, in relation to a loan, means the total of—
- the initial principal amount lent, and
  - any sums that have become principal under the loan, otherwise than by capitalisation of interest.
- (3) In sub-paragraph (1) “repayment amount”, in relation to a loan, means the total of—
- the amount of principal under the loan that has been repaid before 17 March 2016, and
  - payments in money made by the relevant person on or after 17 March 2016 by way of repayment of principal under the loan.

### Textual Amendments

- F16** Words in [Sch. 11 para. 3\(1\)](#) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 28](#)

- 4 (1) A payment is to be disregarded for the purposes of paragraph 3(3)(b) if—
- there is any connection (direct or indirect) between the payment and a tax avoidance arrangement (other than the arrangement under which the loan was made), or
  - the payment, or a sum or asset directly or indirectly representing the payment, is the subject of a relevant step (as defined in section 554A(2) of ITEPA 2003) that is taken—
    - after the payment is made, but
    - before the end of <sup>[F17]</sup>April 2019].
- (2) But a payment is not to be disregarded under sub-paragraph (1)(b) if, by the end of <sup>[F18]</sup>April 2019], each relevant tax liability has been paid in full.
- (3) For the purposes of this paragraph, each of the following is a “relevant tax liability”—
- any liability for income tax arising by virtue of the application of Chapter 2 by reason of the relevant step mentioned in sub-paragraph (1)(b), and
  - where section 554Z6 of ITEPA 2003 (overlap with certain earnings) applies because that relevant step gives rise to relevant earnings for the purposes of that section, any liability for income tax in respect of those relevant earnings.
- <sup>F19</sup>(4) . . . . .
- (5) Sub-paragraph (6) applies if a payment is disregarded under sub-paragraph (1)(b).

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- (6) The value of [F20 a relevant step treated as taken by paragraph 1 or 1A] is not reduced under section 554Z5(3) of ITEPA 2003 (overlap with money or asset subject to earlier tax liability) by the amount of the sum, or the value of the asset, which is the subject of the relevant step mentioned in sub-paragraph (1)(b) unless the payment condition is met by reason of section 554Z5(4)(a) and (b)(ii) being met.

#### Textual Amendments

- F17** Words in Sch. 11 para. 4(1)(b)(ii) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 5\(2\)](#)  
**F18** Words in Sch. 11 para. 4(2) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 5\(3\)](#)  
**F19** Sch. 11 para. 4(4) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 5\(4\)](#)  
**F20** Words in Sch. 11 para. 4(6) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 29](#)

- 5 (1) This paragraph applies where—
- a person (“P”) has made a loan to a relevant person,
  - the loan was made on or after [F219 December 2010], and
  - before the end of 5 April 2019, A or B acquires (whether or not for consideration) a right to payment of the whole or part of the loan.
- (2) The amount of the loan in respect of which A or B acquires a right to payment is to be treated—
- for the purposes of paragraph 1(1) as an amount, of the loan made by P to the relevant person, that is outstanding immediately before the end of 5 April 2019;
  - for the purposes of [F222 paragraphs 1(4) and 1A(5)] and section 554Z3(1) of ITEPA 2003, as an amount of the loan that is outstanding at the time P is treated as taking the relevant step under paragraph 1(1).
- (3) Where a quasi-loan or a loan made by P to a relevant person is replaced, directly or indirectly, by a loan or another loan (the “replacement loan”), references in sub-paragraphs (1) and (2) to the loan are references to the replacement loan.

#### Textual Amendments

- F21** Words in Sch. 11 para. 5(1)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 6](#)  
**F22** Words in Sch. 11 para. 5(2)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 30](#)

#### *Meaning of “outstanding”: loans in currencies other than sterling*

- 6 (1) In paragraphs 7 to 10 “the loan currency”, in relation to a loan, means the currency in which the initial principal amount of the loan is denominated (whether or not that amount is paid in that currency).
- (2) For the purposes of paragraphs 7 to 10, the value of an amount in a particular currency is to be determined by reference to an appropriate spot rate of exchange.
- 7 (1) This paragraph applies in relation to a loan where the loan currency is a currency other than sterling.
- (2) But this paragraph does not apply if paragraph 10 applies in relation to the loan.

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- (3) The amount of the loan that is outstanding, at the time P is treated as taking the relevant step [<sup>F23</sup>within paragraph 1], is to be calculated in sterling as follows—
- Step 1* Calculate, in the loan currency, the amount that is outstanding at that time.
- Step 2* Take the value in sterling, at that time, of that amount.
- (4) See paragraph 8 for provision about repayments made in a currency other than the loan currency.

#### Textual Amendments

**F23** Words in Sch. 11 para. 7(3) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 31](#)

#### *Repayments in currencies other than the loan currency*

- 8 (1) This paragraph applies in relation to a loan where—
- (a) payments in money are made by way of repayment of principal under the loan, and
  - (b) some or all of the payments are made in a currency other than the loan currency.
- (2) But this paragraph does not apply if paragraph 10 applies in relation to the loan.
- (3) For the purposes of calculating the repayment amount in relation to the loan, the amount of each of the payments referred to in sub-paragraph (1)(b) is an amount equal to its value in the loan currency on the date it is made.

#### *Loans made in a depreciating currency*

- 9 (1) Paragraph 10 applies in relation to a loan where—
- (a) the loan currency is a currency other than sterling, and
  - (b) it is reasonable to suppose that the main reason, or one of the main reasons, for the loan being made in that currency is that the loan currency is expected to depreciate as against sterling during the loan period.
- (2) The “loan period”, in relation to a loan, is the period—
- (a) beginning at the time the loan is made, and
  - (b) ending with the time by which, under the terms of the loan, the whole of the loan is to be repaid.
- 10 (1) Where this paragraph applies in relation to a loan—
- (a) paragraphs 7 and 8 do not apply in relation to the loan, and
  - (b) sub-paragraphs (2) to (5) apply for the purposes of calculating the amount of the loan that is outstanding at the time P is treated as taking the relevant step [<sup>F24</sup>within paragraph 1].
- (2) The relevant principal amount, in relation to the loan, is an amount equal to the total of—
- (a) the value in sterling, at the reference date, of the initial principal amount lent, and

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- (b) the value in sterling, at the reference date, of any sums that become principal under the loan, otherwise than by capitalisation of interest.
- (3) The “reference date”—
  - (a) in relation to an amount within sub-paragraph (2)(a), means the date on which the loan is made, and
  - (b) in relation to a sum within sub-paragraph (2)(b), means the date on which the sum becomes principal.
- (4) The repayment amount, in relation to the loan, is an amount equal to the total of—
  - (a) the amount of principal under the loan that has been repaid in sterling, and
  - (b) where payments are made, in a currency other than sterling, by way of repayment of principal under the loan, the amount equal to the sterling value of the payments.
- (5) The “sterling value” of a payment is its value in sterling on the date it is made.

#### Textual Amendments

**F24** Words in Sch. 11 para. 10(1)(b) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 32](#)

#### *Meaning of “outstanding”: quasi-loans*

- 11 (1) An amount of a quasi-loan is outstanding for the purposes of [F25 paragraphs 1 and 1A] if the initial debt amount exceeds the repayment amount.
- (2) In sub-paragraph (1) “initial debt amount”, in relation to a quasi-loan, means the total of—
- (a) an amount equal to the value of the acquired debt (see paragraph 2(2)), and
  - (b) where P subsequently acquires a further right (an “additional debt”) to a payment, or transfer of assets, in connection with the payment mentioned in paragraph 2(3)(a) or (as the case may be) the transfer mentioned in paragraph 2(3)(b), an amount equal to the value of the additional debt.
- (3) For the purposes of sub-paragraph (2)—
- (a) where the acquired debt is a right to payment of an amount, the “value” of the debt is that amount,
  - (b) where the additional debt is a right to payment of an amount, the “value” of the debt is that amount, but is nil if the additional debt accrued to P by the capitalisation of interest on the acquired debt or another additional debt, and
  - (c) where the acquired debt or additional debt is a right to a transfer of assets, the “value” of the debt is an amount equal to—
    - (i) the market value of the assets at the time the right is acquired (or the value of the right at that time if the assets are non-fungible and not in existence at that time), or
    - (ii) if higher, the cost of the assets at that time.
- (4) In sub-paragraph (1) “repayment amount”, in relation to a quasi-loan, means the total of—
- (a) the amount (if any) by which the initial debt amount has been reduced (by way of repayment) before 17 March 2016,



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- (b) payments in money (if any) made by the relevant person on or after 17 March 2016 by way of repayment of the initial debt amount, and
- (c) if the acquired debt or an additional debt is a right to a transfer of assets, and the assets have been transferred, an amount equal to the market value of the assets at the time of the transfer.

#### Textual Amendments

**F25** Words in [Sch. 11 para. 11\(1\)](#) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 33](#)

- 12 (1) A payment or transfer is to be disregarded for the purposes of paragraph 11(4)(b) or (c) if—
- (a) there is any connection (direct or indirect) between the payment or transfer and a tax avoidance arrangement (other than the arrangement under which the quasi-loan was made), or
  - (b) the payment or the asset transferred, or a sum or asset directly or indirectly representing the payment or asset, is the subject of a relevant step (as defined in section 554A(2) of ITEPA 2003) that is taken—
    - (i) after the payment is made or the asset transferred, but
    - (ii) before the end of 5 April 2019.
- (2) But a payment or transfer is not to be disregarded under sub-paragraph (1)(b) if, by the end of 5 April 2019, each relevant tax liability has been paid in full.
- (3) For the purposes of this paragraph, each of the following is a “relevant tax liability”—
- (a) any liability for income tax arising by virtue of the application of Chapter 2 by reason of the relevant step mentioned in sub-paragraph (1)(b), and
  - (b) where section 554Z6 of ITEPA 2003 (overlap with certain earnings) applies because that relevant step gives rise to relevant earnings for the purposes of that section, any liability for income tax in respect of those relevant earnings.
- (4) Sub-paragraph (5) applies if a payment is disregarded under sub-paragraph (1)(b).
- (5) The value of [<sup>F26</sup>a relevant step treated as taken by paragraph 1 or 1A] is not reduced under section 554Z5(3) of ITEPA 2003 (overlap with money or asset subject to earlier tax liability) by the amount of the sum, or the value of the asset, which is the subject of the relevant step mentioned in sub-paragraph (1)(b) unless the payment condition is met by reason of section 554Z5(4)(a) and (b)(ii) being met.

#### Textual Amendments

**F26** Words in [Sch. 11 para. 12\(5\)](#) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 34](#)

- 13 (1) This paragraph applies where—
- (a) a person (“P”) has made a quasi-loan to a relevant person,
  - (b) the quasi-loan was made on or after [<sup>F27</sup>9 December 2010], and
  - (c) before the end of 5 April 2019, A or B acquires (whether or not for consideration) a right to the payment or transfer of assets mentioned in paragraph 2(2)(a).
- (2) The amount equal to the value of the right acquired by A or B is to be treated—

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- (a) for the purposes of paragraph 1(1) as an amount, of the quasi-loan made by P to the relevant person, that is outstanding immediately before the end of 5 April 2019;
  - (b) for the purposes of [<sup>F28</sup>paragraphs 1(4) and 1A(5)] and section 554Z3(1) of ITEPA 2003, as an amount of the quasi-loan that is outstanding at the time P is treated as taking the relevant step under paragraph 1(1).
- (3) For the purposes of sub-paragraph (2)—
- (a) where the right acquired by A or B is a right to payment of an amount, the “value” of the right is that amount;
  - (b) where the right acquired by A or B is a right to a transfer of assets, the “value” of the right is an amount equal to—
    - (i) the market value of the assets at the time the right is acquired (or the value of the right at that time if the assets are non-fungible and not in existence at that time), or
    - (ii) if higher, the cost of the assets at that time.
- (4) Where a loan or a quasi-loan made by P to a relevant person is replaced, directly or indirectly, by a quasi-loan or another quasi-loan (the “replacement quasi-loan”), references in sub-paragraphs (1) and (2) to the quasi-loan are references to the replacement quasi-loan.

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**Textual Amendments**

- F27** Words in Sch. 11 para. 13(1)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 7](#)
- F28** Words in Sch. 11 para. 13(2)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 35](#)

*Meaning of “outstanding”: quasi-loans in currencies other than sterling*

- 14 (1) Paragraphs 15 to 18 apply where P makes a quasi-loan to a relevant person by reason of acquiring a right to a payment in a particular currency (the “quasi-loan currency”).
- (2) For the purposes of paragraphs 15 to 18, the value of an amount in a particular currency is to be determined by reference to an appropriate spot rate of exchange.
- 15 (1) This paragraph applies in relation to the quasi-loan if the quasi-loan currency is a currency other than sterling.
- (2) But this paragraph does not apply if paragraph 18 applies in relation to the quasi-loan.
- (3) The amount of the quasi-loan that is outstanding, at the time P is treated as taking the relevant step [<sup>F29</sup>within paragraph 1], is to be calculated in sterling as follows—
- Step 1* Calculate, in the quasi-loan currency, the amount that is outstanding at that time.
- Step 2* Take the value in sterling, at that time, of that amount.
- (4) See paragraph 16 for provision about repayments made in a currency other than the quasi-loan currency.

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**Textual Amendments**

- F29** Words in Sch. 11 para. 15(3) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 36](#)

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*Repayments in currencies other than the quasi-loan currency*

- 16 (1) This paragraph applies in relation to the quasi-loan if—
- (a) payments in money are made by way of repayment of the initial debt amount, and
  - (b) some or all of the payments are made in a currency other than the quasi-loan currency.
- (2) But this paragraph does not apply if paragraph 18 applies in relation to the quasi-loan.
- (3) For the purposes of calculating the repayment amount in relation to the quasi-loan, the amount of each of the payments referred to in sub-paragraph (1)(b) is an amount equal to its value in the quasi-loan currency on the date it is made.

*Quasi-loans made in a depreciating currency*

- 17 (1) Paragraph 18 applies in relation to the quasi-loan if—
- (a) the quasi-loan currency is a currency other than sterling, and
  - (b) it is reasonable to suppose that the main reason, or one of the main reasons, for the quasi-loan being made in that currency is that the quasi-loan currency is expected to depreciate during the quasi-loan period.
- (2) The “quasi-loan period”, in relation to a quasi-loan, is the period—
- (a) beginning at the time the quasi-loan is made, and
  - (b) ending with the time by which, under the terms of the quasi-loan, the whole of the quasi-loan is to be repaid.
- 18 (1) Where this paragraph applies in relation to the quasi-loan—
- (a) paragraphs 15 and 16 do not apply in relation to the quasi-loan, and
  - (b) sub-paragraphs (2) to (5) apply for the purposes of calculating the amount of the quasi-loan that is outstanding at the time P is treated as taking the relevant step [F30 within paragraph 1].
- (2) The initial debt amount, in relation to the quasi-loan, is an amount equal to the total of—
- (a) the value in sterling, at the reference date, of the acquired debt, and
  - (b) the value in sterling, at the reference date, of any additional debt.
- (3) The “reference date”—
- (a) in relation to a right within sub-paragraph (2)(a), means the date on which P acquires it, and
  - (b) in relation to a right within sub-paragraph (2)(b), means the date on which P acquires it.
- (4) The repayment amount, in relation to the quasi-loan, is an amount equal to the total of—
- (a) the amount of the initial debt amount that has been repaid in sterling, and
  - (b) where payments are made, in a currency other than sterling, by way of repayment of the initial debt amount, the amount equal to the sterling value of the payments.
- (5) The “sterling value” of a payment is its value in sterling on the date it is made.

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**Textual Amendments**

**F30** Words in Sch. 11 para. 18(1)(b) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 37](#)

*F31* ...

**Textual Amendments**

**F31** Sch. 11 para. 19 and cross-heading omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 8](#)

*F31*19 .....

**PART 2**

**[<sup>F32</sup>ACCELERATED PAYMENTS]**

**Textual Amendments**

**F32** Sch. 11 Pt. 2 heading substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 9](#)

*<sup>F33</sup>Application to HMRC*

**Textual Amendments**

**F33** Sch. 11 paras. 20-22 and cross-headings omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 10](#)

*F33*20 .....

*<sup>F33</sup>Qualifying payments condition*

*F33*21 .....

*<sup>F33</sup>Commercial terms condition*

22 .....

*F34* ...

**Textual Amendments**

**F34** Sch. 11 para. 23 cross-heading omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 11](#)

23 (1) Paragraph 24(1) applies where—

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- (a) a person (“P”) would (ignoring paragraph 24) be treated as taking a relevant step within paragraph 1 by reason of making a loan, or a quasi-loan, to a relevant person,
  - (b) an accelerated payment notice, or a partner payment notice, relating to a relevant charge (the “accelerated payment notice”) has been given under Chapter 3 of Part 4 of FA 2014,
  - (c) the relevant person makes a payment (the “accelerated payment”) in respect of the understated or disputed tax to which the notice relates,
  - (d) the accelerated payment is made on or before [<sup>F35</sup>5 April 2019], and
  - (e) the amount of the loan or quasi-loan that, at the end of [<sup>F36</sup>5 April 2019], is outstanding for the purposes of paragraph 1 (see paragraphs 3 to 18) is equal to or less than the amount of the accelerated payment.
- (2) In sub-paragraph (1)(b), “relevant charge” means a charge to tax arising by reason of a step taken pursuant to the relevant arrangement concerned.
- (3) The reference in sub-paragraph (2) to the relevant arrangement concerned is a reference to the relevant arrangement in pursuance of which, or in connection with which, the loan or quasi-loan mentioned in sub-paragraph (1)(a) is made.
- <sup>F37</sup>(4) . . . . .
- (5) In sub-paragraphs (1)(c) and (2)—
- (a) the reference to tax includes a reference to relevant contributions, and
  - (b) the reference to a charge to tax includes a reference to a liability to pay relevant contributions;
- and for those purposes “relevant contributions” has the same meaning as in Schedule 2 to the National Insurance Contributions Act 2015 (application of Part 4 of FA 2014 to national insurance contributions).
- (6) If more than one notice relating to a particular relevant charge has been given—
- (a) the reference in sub-paragraph (1)(e) to the amount of the accelerated payment is to be treated as a reference to the aggregate of the amounts of each accelerated payment in respect of which the conditions in sub-paragraph (1) (c) and (d) are met, and
  - (b) the reference in paragraph 24(2) to the accelerated payment notice is to be treated as a reference to the accelerated payment notices or any of them.

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#### Textual Amendments

- F35** Words in Sch. 11 para. 23(1)(d) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 12\(2\)](#) **(a)**
- F36** Words in Sch. 11 para. 23(1)(e) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 12\(2\)](#) **(b)**
- F37** Sch. 11 para. 23(4) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 12\(3\)](#)

- 24 (1) The relevant person may make an application to the Commissioners for Her Majesty's Revenue and Customs for P to be treated—
- (a) as taking the relevant step only if the condition in sub-paragraph (2) is met, and
  - (b) as doing so not at the time given by paragraph 1(2) but immediately before—

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- (i) the end of the 30 days beginning with the date on which the condition in sub-paragraph (2) becomes met, or
  - (ii) if later, the end of 5 April 2019.
- (2) The condition is that, on the withdrawal of the accelerated payment notice or on the determination of an appeal, any part of the accelerated payment is repaid.
  - (3) Subject to sub-paragraph (4), an application under sub-paragraph (1) may be made in 2018.
  - (4) An application may be made after 2018 if an officer of Revenue and Customs considers it is reasonable in all the circumstances for the relevant person to make a late application.
  - (5) An application must be made in such form and manner, and contain such information, as may be specified by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs.
  - (6) An officer of Revenue and Customs must notify the applicant of the decision on an application under this paragraph.
  - (7) A favourable decision on an application under this paragraph may be revoked by an officer of Revenue and Customs if the officer considers that—
    - (a) information provided in making the application contained an inaccuracy, and
    - (b) the inaccuracy was deliberate on the applicant's part.
  - (8) Where the decision on an application is revoked under sub-paragraph (7), the application is to be treated as having been refused at the outset.

### PART 3

#### EXCLUSIONS

##### *Commercial transactions*

- 25 Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if—
  - (a) P is treated as taking a relevant step by that paragraph by reason of the payment of a sum of money by way of a loan,
  - (b) the loan is (at the time it is made) a loan on ordinary commercial terms within the meaning of section 176 of ITEPA 2003, ignoring conditions B and C in that section, and
  - (c) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- 26 In section 554F of ITEPA 2003 (exclusions: commercial transactions), at the end insert—
  - “(6) See paragraph 25 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions where a loan is made on ordinary commercial terms and the relevant step is within paragraph 1 of that Schedule.”

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*Transfer of employment-related loans*

- 27 (1) Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if—
- (a) P is treated as taking a relevant step within that paragraph by reason of making a quasi-loan by acquiring a right to payment of an amount equal to the whole or part of a payment made by way of a loan to a relevant person (the “borrower”),
  - (b) the loan, at the time it was made, was an employment-related loan,
  - (c) at the time the right is acquired, the section 180 threshold is not exceeded in relation to the loan,
  - (d) at the time the right is acquired, the borrower is an employee, or a prospective employee, of P, and
  - (e) there is no connection (direct or indirect) between the acquisition of the right and a tax avoidance arrangement.
- (2) Subsections (2) to (5) of section 554OA of ITEPA 2003 (section 180 threshold) apply for the purposes of this paragraph as they apply for the purposes of that section.
- (3) In this paragraph, “employment-related loan” has the same meaning as it has for the purposes of Chapter 7 of Part 3.
- 28 In section 554OA of ITEPA 2003 (exclusions: transfer of employment-related loans), at the end insert—
- “(6) See paragraph 27 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions where a loan is an employment-related loan and the relevant step is within paragraph 1 of that Schedule.”

*Transactions under employee benefit packages*

- 29 (1) Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if—
- (a) P is treated as taking a relevant step by that paragraph by reason of the payment of a sum of money by way of a loan,
  - (b) the step is not taken under a pension scheme,
  - (c) the loan was made for the sole purpose of a transaction of P's with A and which P entered into in the ordinary course of P's business,
  - (d) at the time the loan was made (the “relevant time”)—
    - (i) a substantial proportion of P's business involved making similar loans to members of the public,
    - (ii) the transaction with A was part of a package of benefits which was available to a substantial proportion of B's employees, and
    - (iii) sub-paragraph (3) does not apply,
  - (e) the terms on which similar transactions were offered by P under the package of benefits mentioned in paragraph (d)(ii) were generous enough to enable substantially all of the employees of B to whom the package was available at or around the relevant time to take advantage of what was offered (if they wanted to),
  - (f) the terms on which P entered into the transaction with A were substantially the same as the terms on which at or around the relevant time P normally

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- entered into similar transactions with employees of B under the package of benefits,
- (g) if B is a company, a majority of B's employees to whom the package of benefits was available at the relevant time did not have a material interest (as defined in section 68 of ITEPA 2003) in B, and
- (h) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (2) For the purposes of sub-paragraph (1)(d)(i)—
- (a) a loan is “similar” if it is made for the same or similar purposes as the loan which is the subject of the relevant step, and
- (b) “members of the public” means members of the public at large with whom P deals at arm’s length.
- (3) This sub-paragraph applies if any feature of the package of benefits mentioned in sub-paragraph (1)(d)(ii) had or would have been likely to have had the effect that, of the employees of B to whom the package was available, it is employees within sub-paragraph (4) on whom benefits under the package will be wholly or mainly conferred.
- (4) The employees within this sub-paragraph are—
- (a) directors,
- (b) senior employees,
- (c) employees who at the relevant time received, or as a result of the package of benefits would have been likely to have received, the higher or highest levels of remuneration, and
- (d) if, at the relevant time, B was a company and was a member of a group of companies, any employees not within paragraph (b) or (c) who—
- (i) were senior employees in the group, or
- (ii) received, or as a result of the package of benefits would have been likely to have received, the higher or highest levels of remuneration in the group.
- (5) For the purposes of sub-paragraph (1)(d) and (e) a transaction is “similar” if it is of the same or a similar type to the transaction which P has or had with A.
- (6) In this paragraph references to A include references to any person linked with A.
- (7) In this paragraph “pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(1) of that Act).
- 30 In section 554G of ITEPA 2003 (exclusions: transactions under employee benefit packages), at the end insert—

“(8) See paragraph 29 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions for transactions under employee benefit packages in a case in which the relevant step is within paragraph 1 of that Schedule.”

*Cases involving employment-related securities*

- 31 Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if—
- (a) P is treated as taking a relevant step by that paragraph by reason of the payment of a sum of money by way of a loan (the “relevant loan”),



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- (b) the relevant loan is made and used solely for the purpose of enabling A to exercise an employment-related securities option (within the meaning of Chapter 5 of Part 7 of ITEPA 2003),
  - (c) the exercise of the option by A gives rise to employment income of A in respect of A's employment with B—
    - (i) which is chargeable to income tax or would be chargeable apart from Chapter 5B of Part 2 of ITEPA 2003, or
    - (ii) which is exempt income, and
  - (d) there is no connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- 32 In section 554N of ITEPA 2003 (exclusions: other cases involving employment-related securities etc.), at the end insert—
- “(17) See paragraph 31 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions where a loan is made for the purpose of enabling the exercise of an employment-related securities option and the relevant step is within paragraph 1 of that Schedule.”

#### *Employee car ownership schemes*

- 33 (1) This paragraph applies if—
- (a) there is an arrangement (“the car ownership arrangement”) which—
    - (i) provides for A to purchase a new car from another person (“S”) using a loan (“the car loan”) to be made to A by an authorised lender,
    - (ii) specifies the date (“the repayment date”) by which the car loan must be fully repaid which must be no later than four years after the date on which the car loan is made, and
    - (iii) permits A, in order to obtain funds to repay the car loan, to sell the car back to S on a specified date at a specified price based on an estimate (made at the time the car ownership arrangement is made) of the likely outstanding amount of the car loan on the specified date, and
    - (iv) as provided for by the car ownership arrangement, A purchases the car using the car loan.
- (2) Chapter 2 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person if—
- (a) the person is treated as taking a relevant step by that paragraph by reason of making the car loan, and
  - (b) the car ownership arrangement is not a tax avoidance arrangement and there is no other connection (direct or indirect) between the relevant step and a tax avoidance arrangement.
- (3) In this paragraph—
- “car” has the meaning given by section 235(2) of ITEPA 2003, and
  - “authorised lender” means a person who—
    - (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to enter into, or to exercise or have the right to exercise rights and duties under, a contract of the kind mentioned in paragraph 23 of Schedule 2 to that Act, and
    - (b) is not acting as a trustee.

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- (4) The definition of “authorised lender” must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
  - (b) any relevant order under that section, and
  - (c) Schedule 2 to that Act.
- 34 In section 554O of ITEPA 2003 (exclusions: employee car ownership schemes), at the end insert—
- “(7) See paragraph 33 of Schedule 11 to F(No. 2)A 2017 for provision about exclusions for car loans in a case in which the relevant step is within paragraph 1 of that Schedule.”

*Acquisition of unlisted employer shares*

- 35 (1) Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1 which is treated as being taken by a person (“P”) if the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) the loan or quasi-loan concerned was made before 9 December 2010,
  - (b) if P is treated as taking a relevant step by paragraph 1 by reason of the payment of a sum of money by way of loan, the sum is used by A solely to acquire employer shares,
  - (c) if P is treated as taking a relevant step by paragraph 1 by reason of making a quasi-loan, the transfer of assets mentioned in paragraph 2(3)(b) is the transfer of employer shares to A,
  - (d) the employer shares are acquired, or transferred, before the end of the period of one year beginning with the day on which the loan, or quasi-loan, is made, and
  - (e) the employer shares are not listed on a recognised stock exchange at any time during the period beginning with the day on which the loan, or quasi-loan, is made and ending with the earlier of—
    - (i) the day on which A ceases to hold the shares, or
    - (ii) the day on which the loan, or quasi-loan, is repaid.
- (3) In this paragraph “employer shares” means shares that form part of the ordinary share capital of—
- (a) B, or
  - (b) if B is a company and is a member of a group of companies at the time the shares are acquired, any other company which is a member of that group at that time.
- (4) Sub-paragraph (6) applies if—
- (a) apart from sub-paragraph (1), Chapter 2 of Part 7A would apply by reason of the relevant step mentioned in sub-paragraph (1), and
  - (b) at the end of the relevant period, an amount of the loan, or quasi-loan, is outstanding.
- (5) In this paragraph “the relevant period” means the period of 12 months beginning with the day on which A ceases to hold the shares.
- (6) Part 7A of ITEPA 2003 has effect as if—

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- (a) a relevant step within paragraph 1 were taken by reason of making a loan, or quasi-loan, of an amount equal to the amount of the loan, or quasi-loan, outstanding at the end of the relevant period, and
- (b) the relevant step were taken on the day after the end of the relevant period.

<sup>F38</sup>*Exclusion for relevant step within paragraph 1A where initial step excluded*

#### Textual Amendments

**F38** Sch. 11 para. 35ZA and cross-heading inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 38](#)

35ZA Chapter 2 of Part 7A of ITEPA 2003 does not apply by reason of a relevant step within paragraph 1A if that Chapter does not apply by reason of the initial step (within the meaning given by sub-paragraph (1)(a) of paragraph 1A).]

### [<sup>F39</sup>PART 3A

#### DUTY TO PROVIDE LOAN CHARGE INFORMATION TO HMRC

#### Textual Amendments

**F39** Sch. 11 Pt. 3A inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 10](#)

#### *Duty to provide loan charge information*

- 35A (1) Paragraphs 35B and 35C apply if one of the following conditions is met.
- (2) The first condition is that—
    - (a) a person (“P”) is treated as taking a relevant step within paragraph 1 immediately before the end of 5 April 2019, and
    - (b) Chapter 2 of Part 7A of ITEPA 2003 applies by reason of that relevant step.
  - <sup>F40</sup>(3) . . . . .
  - (4) The [<sup>F41</sup>second] condition is that—
    - (a) paragraph 24(1) applies by reference to a loan, or a quasi-loan, made by a person (“S”) to a relevant person (“R”),
    - (b) R makes an application under paragraph 24(1) for S to be treated as mentioned in paragraph 24(1) in relation to the relevant step concerned,
    - (c) a favourable decision is made on the application before 6 April 2019,
    - (d) that decision is not revoked before 6 April 2019,
    - (e) the first condition is not met, and
    - (f) A is living immediately before—
      - (i) the end of 30 September 2019, or
      - (ii) if earlier, the time given by sub-paragraphs (i) and (ii) of paragraph 24(1)(b).
  - (5) The [<sup>F42</sup>third] condition is that—

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- (a) [<sup>F43</sup>neither the first nor the second condition] is met, and
  - (b) if the date specified in paragraph 1(1)(c) [<sup>F44</sup>and (2)] were 16 March 2016  
<sup>F45</sup>...—
    - (i) a person (“T”) would be treated as taking a relevant step within paragraph 1 immediately before the end of 16 March 2016, and
    - (ii) Chapter 2 of Part 7A of ITEPA 2003 would apply by reason of that relevant step (using, for this purpose, the law that would be used to test whether that Chapter applies to a relevant step taken on 5 April 2019), and
  - (c) A is living immediately before the end of 5 April 2019.
- (6) Paragraph 35C does not apply in a case where one of the first to [<sup>F46</sup>third] conditions is met if—
- (a) a person agrees, with an officer of Revenue and Customs, terms for the discharge of liability for income tax,
  - (b) the terms cover all liability (if any) under Chapter 2 of Part 7A of ITEPA 2003 by reason of any loan-charge relevant step or result in there being no such liability, and
  - (c) the terms are agreed before 1 October 2019.
- (7) In sub-paragraph (6)(b) “loan-charge relevant step” means (as the case may be)—
- (a) the relevant step that P is treated as taking,
  - <sup>F47</sup>(b) .....
  - (c) any relevant step within paragraph 1 that S is, or has yet to be, treated as taking by reference to the loan or quasi-loan mentioned in sub-paragraph (4), or
  - (d) any relevant step within paragraph 1 that T is, or has yet to be, treated as taking by reference to the loan or quasi-loan by reference to which T would be treated as taking the relevant step mentioned in sub-paragraph (5)(b)(i).

#### Textual Amendments

- F40** Sch. 11 para. 35A(3) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(2\)](#)
- F41** Word in Sch. 11 para. 35A(4) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(3\)](#)
- F42** Word in Sch. 11 para. 35A(5) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(a\)](#)
- F43** Words in Sch. 11 para. 35A(5)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(b\)](#)
- F44** Words in Sch. 11 para. 35A(5)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(c\)\(i\)](#)
- F45** Words in Sch. 11 para. 35A(5)(b) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(c\)\(ii\)](#)
- F46** Word in Sch. 11 para. 35A(6) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(5\)](#)
- F47** Sch. 11 para. 35A(7)(b) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(6\)](#)

- 35B (1) In this paragraph “the appropriate third party” means P, <sup>F48</sup>... S or T (as the case may be: see paragraph 35A).
- (2) Sub-paragraph (3) applies if the appropriate third party receives a request from A or A’s personal representatives for information specified in the request that is reasonably required for the purpose of complying with paragraph 35C in the case concerned.

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- (3) The appropriate third party must provide A or A’s personal representatives—
- (a) with such of the information as is available to the appropriate third party, and
  - (b) if any of the information is not available to the appropriate third party, with a statement confirming that so much of the information as is not provided is information that is not available to the appropriate third party.
- (4) The information, and any such statement, must be provided promptly and, in any event, before the end of 30 days beginning with date of receipt of the request.

#### Textual Amendments

**F48** Word in Sch. 11 para. 35B(1) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 14](#)

- 35C (1) A, or A’s personal representatives, must provide the loan charge information (see paragraph 35D(1)) to the Commissioners for Her Majesty’s Revenue and Customs.
- (2) The loan charge information must be provided—
- (a) after 5 April 2019, and
  - (b) before [<sup>F49</sup>1 October 2020].
- (3) The loan charge information must be provided in such form and manner as may be specified by, or on behalf of, the Commissioners for Her Majesty’s Revenue and Customs.

#### Textual Amendments

**F49** Words in Sch. 11 para. 35C(2)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [s. 19\(2\)](#)

#### Textual Amendments

**F40** Sch. 11 para. 35A(3) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(2\)](#)

**F41** Word in Sch. 11 para. 35A(4) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(3\)](#)

**F42** Word in Sch. 11 para. 35A(5) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(a\)](#)

**F43** Words in Sch. 11 para. 35A(5)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(b\)](#)

**F44** Words in Sch. 11 para. 35A(5)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(c\)\(i\)](#)

**F45** Words in Sch. 11 para. 35A(5)(b) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(4\)\(c\)\(ii\)](#)

**F46** Word in Sch. 11 para. 35A(6) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(5\)](#)

**F47** Sch. 11 para. 35A(7)(b) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 13\(6\)](#)

**F48** Word in Sch. 11 para. 35B(1) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 14](#)

**F49** Words in Sch. 11 para. 35C(2)(b) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [s. 19\(2\)](#)

#### “Loan charge information”

- 35D (1) For the purposes of paragraphs 35C and 36, the “loan charge information” consists of—
- (a) A’s name and, if A’s personal representatives are providing the information, their names,

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- (b) the address and telephone number, and e-mail address (if any), of each person providing the information,
  - (c) A’s national insurance number (if any),
  - (d) the unique taxpayer reference number (if any) allocated to A by HMRC,
  - (e) if the loan or quasi-loan that is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i)<sup>F50</sup> ... is made to someone other than A, the name of the person to whom it is made,
  - (f) B’s name,
  - (g) the name of the relevant arrangement,
  - (h) the reference number (if any) allocated to the relevant arrangement by HMRC under section 311 of FA 2004 (disclosure of tax avoidance schemes: arrangements to be given reference number),
  - (i) any other reference number allocated by HMRC in connection with the relevant arrangement or the relevant step,
  - (j) if a person has agreed terms with an officer of Revenue and Customs for the partial discharge of the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003 by reason of the relevant step that P<sup>F51</sup> ... or S is treated as taking, the date of that agreement and the amount of the liability to which it relates,
  - (k) if a loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i)<sup>F52</sup> ... the loan payment information (see sub-paragraph (2)), and
  - (l) if a quasi-loan is or would be the subject of the relevant step mentioned in paragraph 35A(2)(a) or (4)(b) or (5)(b)(i), the quasi-loan payment information (see sub-paragraph (3)).
- (2) The “loan payment information”, in relation to a loan, consists of statements of the following—
- <sup>F53</sup>(a) .....
  - (b) the initial principal amount of the loan,
  - (c) the amount that has become principal under the loan, otherwise than by capitalisation of interest, in each relevant tax year,
  - (d) the amount of principal under the loan repaid in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,
  - (e) the details of any repayment that is to be disregarded under paragraph 4,
  - (f) the amount of principal under the loan that has been released or written off in each relevant tax year, and
  - (g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.
- (3) The “quasi-loan payment information”, in relation to a quasi-loan, consists of statements of the following—
- (a) the amount equal to the value of the acquired debt,
  - (b) the amount equal to the value of the additional debts acquired in each relevant tax year,
  - (c) the amount by which the initial debt amount has been reduced by way of repayment in each relevant tax year, ignoring any repayments not in money made on or after 17 March 2016,

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- (d) where the acquired debt or an additional debt is a right to a transfer of assets, and the assets have been transferred, the amount of the market value of the assets at the time of the transfer,
  - (e) the details of any repayment that is to be disregarded under paragraph 12,
  - (f) the amount by which the initial debt amount has been reduced by release or writing off in each relevant tax year, and
  - (g) whether the liability for income tax arising because of the application of Chapter 2 of Part 7A of ITEPA 2003, or section 188 of that Act, by reason of the release or writing-off has been paid.
- (4) In this paragraph “relevant tax year” in relation to a loan, or a quasi-loan, means—
- (a) the tax year in which the loan or quasi-loan was made, and
  - (b) each subsequent tax year.
- (5) In sub-paragraph (3), “acquired debt”, “additional debt” and “initial debt amount” have the same meaning as in paragraph 11.
- (6) In this paragraph and in paragraphs 35G to 35J, “HMRC” means Her Majesty’s Revenue and Customs.

#### Textual Amendments

- F50** Words in Sch. 11 para. 35D(1)(e) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 15\(2\)\(a\)](#)
- F51** Word in Sch. 11 para. 35D(1)(j) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 15\(2\)\(b\)](#)
- F52** Words in Sch. 11 para. 35D(1)(k) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 15\(2\)\(c\)](#)
- F53** Sch. 11 para. 35D(2)(a) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 2 para. 15\(3\)](#)

#### Power to amend paragraph 35D

- 35E The Commissioners for Her Majesty’s Revenue and Customs may by regulations amend paragraph 35D so as to—
- (a) add, remove or amend an entry in a list of information, and
  - (b) make incidental provision.

#### Penalties for failure to comply

- 35F (1) A person who fails to comply with paragraph 35C is liable to a penalty of £300.
- (2) Sub-paragraph (3) applies if the failure continues after the date on which a penalty is imposed under sub-paragraph (1) in respect of the failure.
- (3) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day, up to a maximum of 90 days, on which the failure continues.

#### Penalties for inaccurate information and documents

- 35G (1) This paragraph applies if—
- (a) in complying with the duty under paragraph 35C, a person provides inaccurate information, and

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- (b) condition A, B or C is met.
- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.
- (4) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.
- (5) Condition C is that the person—
  - (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform HMRC.
- (6) The person is liable to a penalty not exceeding £3000.
- (7) Where the information contains more than one inaccuracy, a penalty is payable for each inaccuracy.

#### *Reasonable excuse*

- 35H (1) Liability to a penalty under paragraph 35F does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.
- (2) For the purposes of this paragraph—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
  - (b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure, and
  - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

#### *Assessment of a penalty*

- 35I (1) Where a person becomes liable for a penalty under paragraph 35F or 35G—
- (a) HMRC may assess the penalty, and
  - (b) if they do so, they must notify the person.
- (2) An assessment of a penalty under paragraph 35F must be made before 1 October 2021.
- (3) An assessment of a penalty under paragraph 35G must be made before 1 October 2023.

#### *Appeals*

- 35J (1) A person may appeal against any of the following decisions of an officer of Revenue and Customs—
- (a) a decision that a penalty is payable by that person under paragraph 35F or 35G, or
  - (b) a decision as to the amount of such a penalty.



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- (2) Notice of an appeal under this paragraph must be given—
- (a) in writing,
  - (b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, and
  - (c) to HMRC.
- (3) Notice of an appeal under this paragraph must state the grounds of appeal.
- (4) On an appeal under sub-paragraph (1)(a) that is notified to the tribunal, the tribunal may confirm or cancel the decision.
- (5) On an appeal under sub-paragraph (1)(b) that is notified to the tribunal, the tribunal may—
- (a) confirm the decision, or
  - (b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.

### *Enforcement*

- 35K (1) A penalty under paragraph 35F or 35G must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 35I was issued, or
  - (b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under paragraph 35F or 35G may be enforced as if it were income tax charged in an assessment and due and payable.]

## PART 4

### SUPPLEMENTARY PROVISION

#### *Duty to provide loan [<sup>F54</sup>charge] information to B*

#### **Textual Amendments**

- F54** Word in [Sch. 11 para. 36 cross-heading](#) substituted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 11\(4\)](#)

- 36 (1) This paragraph applies where—
- (a) a person (“P”) has made a loan, or a quasi-loan, to a relevant person,
  - (b) the loan or quasi-loan was made on or after [<sup>F55</sup>9 December 2010], and
  - (c) an amount of the loan or quasi-loan is outstanding at any time—
    - (i) on or after 17 March 2016, and
    - (ii) before the end of 5 April 2019.

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(2) Each of A and P must ensure that the [<sup>F56</sup>loan charge information (see paragraph 35D)] in relation to the loan or quasi-loan is provided to B before the end of [<sup>F57</sup>15 April 2019].

<sup>F58</sup>(3) .....

<sup>F59</sup>(4) .....

<sup>F60</sup>(5) .....

<sup>F61</sup>(6) .....

(7) “Loan”, “quasi-loan” and “outstanding” have the same meaning for the purposes of this paragraph as they have for the purposes of paragraph 1.

#### Textual Amendments

**F55** Words in Sch. 11 para. 36(1)(b) substituted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 2 para. 16(2)

**F56** Words in Sch. 11 para. 36(2) substituted (15.3.2018) by Finance Act 2018 (c. 3), Sch. 1 para. 11(2)

**F57** Words in Sch. 11 para. 36(2) substituted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 2 para. 16(3)

**F58** Sch. 11 para. 36(3) omitted (15.3.2018) by virtue of Finance Act 2018 (c. 3), Sch. 1 para. 11(3)

**F59** Sch. 11 para. 36(4) omitted (22.7.2020) by virtue of Finance Act 2020 (c. 14), Sch. 2 para. 16(4)

**F60** Sch. 11 para. 36(5) omitted (15.3.2018) by virtue of Finance Act 2018 (c. 3), Sch. 1 para. 11(3)

**F61** Sch. 11 para. 36(6) omitted (15.3.2018) by virtue of Finance Act 2018 (c. 3), Sch. 1 para. 11(3)

#### Double taxation

[<sup>F62</sup>36A(1) Sub-paragraphs (2) to (8) apply if—

- (a) a person (“P”) would, apart from this paragraph, be treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
- (b) the loan gives rise to a charge to tax under section 455 of CTA 2010 by virtue of section 459 of that Act (loans treated as made to participators).

(2) In this paragraph “the key date” means the later of—

- (a) 5 April 2019, and
- (b) the day on which the tax referred to in sub-paragraph (1)(b) is due and payable (see section 455(3) of CTA 2010).

(3) Paragraph 1(2) has effect as if it treated P as taking the relevant step immediately before the end of the key date, but this is subject to sub-paragraphs (4) and (5).

(4) Paragraph 1(1) does not apply in the case of the loan if the payment condition is met.

(5) Paragraph 1(1) does not apply in the case of the loan if—

- (a) the payment condition is not met,
- (b) the charge to tax mentioned in sub-paragraph (1)(b) is reported, in a company tax return of B’s, as required under Schedule 18 to FA 1998 (company tax returns etc), and
- (c) an officer of Revenue and Customs considers that paragraph 1(1) should not apply in the case of the loan.

(6) The payment condition is met if—

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- (a) the net section 455 charge is paid in full on or before the key date, or
  - (b) the net section 455 charge is nil.
- (7) The “net section 455 charge” is the amount of the tax referred to sub-paragraph (1) (b) less the amount of section 458 relief from that tax.
- (8) In sub-paragraph (7) “section 458 relief” means relief given under section 458 of CTA 2010—
- (a) in respect of a repayment made, or a release or writing-off occurring, on or before the key date, and
  - (b) on a claim made on or before the key date.]

### Textual Amendments

**F62** Sch. 11 para. 36A inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [Sch. 1 para. 4\(2\)](#)

- 37 (1) Sub-paragraph (2) applies where—
- (a) P is treated as taking a relevant step by paragraph 1 by reason of a loan made to a relevant person, and
  - (b) the loan is an employment-related loan (within the meaning of Chapter 7 of Part 3 of ITEPA 2003).
- (2) The effect of section 554Z2(2)(a) of ITEPA 2003 (value of relevant step to count as employment income: application of Part 7A instead of the benefits code) is that the loan is not be treated as a taxable cheap loan for the purposes of Chapter 7 of Part 3 of that Act for—
- (a) the tax year in which the relevant step is treated as being taken, and
  - (b) any subsequent tax year.
- 38 In section 554Z2 of ITEPA 2003, at the end insert—
- “(4) See paragraph 37 of Schedule 11 to F(No. 2)A 2017 for provision about the effect of subsection (2)(a) in a case in which the relevant step is within paragraph 1 of that Schedule.”

### *Remittance basis*

- 39 Part 7A of ITEPA 2003 is amended as follows.
- 40 (1) Section 554Z9 (remittance basis: A does not meet section 26A requirement) is amended in accordance with this paragraph.
- (2) In subsection (1), for “Subsection (2) applies” substitute “ Subsections (2) and (2A) apply ”.
- (3) In subsection (1A), for “subsection (2) does not apply” substitute “ subsections (2) and (2A) do not apply ”.
- (4) At the beginning of subsection (2) insert “ Except in a case within subsection (2A), ”.
- (5) After subsection (2) insert—
- “(2A) Where the relevant step is within paragraph 1 of Schedule 11 to F(No. 2)A 2017, A's employment income by virtue of section 554Z2(1), or the relevant part of it, is “taxable specific income” in the tax year in which the relevant

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step is treated as being taken so far as the income is remitted to the United Kingdom in that tax year or in any previous tax year.”

- (6) In subsection (3) for “this purpose” substitute “ the purposes of subsections (2) and (2A) ”.
- (7) In subsection (5)—
- (a) in the words before paragraph (a), for “subsection (2)” substitute “ subsection (2) or (2A) ”;
  - (b) in the words after paragraph (d)—
    - (i) for “subsection (2)” substitute “ subsection (2) or (2A) ”;
    - (ii) for “that subsection” substitute “ subsection (2) or (2A) (as the case may be) ”.
- 41 (1) Section 554Z10 (remittance basis: A meets section 26A requirement) is amended in accordance with this paragraph.
- (2) In subsection (1) for “Subsection (2) applies” substitute “ Subsections (2) and (2A) apply ”.
- (3) At the beginning of subsection (2) insert “ Except in a case within subsection (2AA), ”.
- (4) After subsection (2) insert—
- “(2AA) Where the relevant step is within paragraph 1 of Schedule 11 to F(No. 2)A 2017, the overseas portion of (as the case may be)—
- (a) A's employment income by virtue of section 554Z2(1), or
  - (b) the relevant part of A's employment income by virtue of that section, is “taxable specific income” in the tax year in which the relevant step is treated as being taken so far as the overseas portion is remitted to the United Kingdom in that tax year or in any previous tax year.”
- 42 (1) Section 554Z11 (remittance basis: supplementary) is amended in accordance with this paragraph.
- (2) In subsection (4), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- (3) In subsection (5), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- (4) In subsection (6), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.
- 43 (1) Section 554Z11A (temporary non-residents) is amended in accordance with this paragraph.
- (2) In subsection (2)—
- (a) after “554Z9(2)” insert “ or (2A) ”;
  - (b) after “554Z10(2)” insert “ or (2AA) ”.
- (3) In subsection (3)(d)(i), for “554Z9(2) or 554Z10(2)” substitute “ 554Z9(2) or (2A) or 554Z10(2) or (2AA) ”.

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### Interpretation

- 44 (1) In this Schedule, “tax avoidance arrangement” has the same meaning as it has for the purposes of Part 7A of ITEPA 2003 (see section 554Z(13) to (15) of that Act).
- (2) Section 554Z(16) (determining whether a step is connected with a tax avoidance arrangement) applies for the purposes of this Schedule as it applies for the purposes of Part 7A of ITEPA 2003.
- 45 See section 554A(1)(a) [<sup>F63</sup>and 554AA(1)(a)] of ITEPA 2003 for the meaning of “A” and “B”.

#### Textual Amendments

**F63** Words in [Sch. 11 para. 45](#) inserted (22.7.2020) by [Finance Act 2020 \(c. 14\), s. 19\(3\)](#)

## PART 5

### CONSEQUENTIAL AMENDMENTS

#### ITEPA 2003

- 46 (1) ITEPA 2003 is amended in accordance with this paragraph.
- (2) In section 554A(2) (meaning of “relevant step”), after “or 554D” insert “, or paragraph 1 of Schedule 11 to F(No. 2)A 2017”.
- (3) In section 554A(4) (relevant step taken on or after A's death), in paragraph (a) after “section 554B taken” insert “, or a relevant step within paragraph 1 of Schedule 11 to F(No.2)A 2017 which is treated as being taken,”.
- (4) In section 554Z(9) (interpretation: reference to definition of “relevant step”), at the end insert “, but see also Schedule 11 to F(No. 2)A 2017”.
- (5) In section 554Z(10) (interpretation: relevant step which involves a sum of money) omit “or” at the end of paragraph (b) and after paragraph (c) insert “, or  
(d) a step within paragraph 1 of Schedule 11 to F(No. 2)A 2017.”
- (6) In section 554Z5 of ITEPA 2003 (overlap with money or asset subject to earlier tax liability), at the end insert—
- “(12) See paragraphs 4(5) and (6) and 12(4) and (5) of Schedule 11 of F(No. 2)A 2017) for provision about the effect of subsection (3) in certain cases where the relevant step is within paragraph 1 of that Schedule.”

#### FA 2011

- 47 In paragraph 59 of Schedule 2 to FA 2011 (transitional provision relating to Part 7A of ITEPA 2003), in sub-paragraph (1)(a), after “ITEPA 2003” insert “ or paragraph 1 of Schedule 11 to F(No. 2)A 2017”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)