



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART V

PROVISIONS RELATING TO THE SCHEDULE E CHARGE

CHAPTER I

SUPPLEMENTARY CHARGING PROVISIONS OF GENERAL APPLICATION

Miscellaneous provisions

131 Chargeable emoluments

- (1) Tax under Case I, II or III of Schedule E shall, except as provided to the contrary by any provision of the Tax Acts, be chargeable on the full amount of the emoluments falling under that Case, subject to such deductions only as may be authorised by the Tax Acts, and the expression “emoluments” shall include all salaries, fees, wages, perquisites and profits whatsoever.
- (2) Tax under Case III of Schedule E shall be chargeable whether or not tax is chargeable in respect of the same office or employment under Case I or II of that Schedule, but shall not be chargeable on any emoluments falling under Case I or II for the same or another chargeable period.

132 Place of performance, and meaning of emoluments received in the U.K

- (1) Where a person ordinarily performs the whole or part of the duties of his office or employment in the United Kingdom, then, for the purposes of Cases I and II of Schedule E, his emoluments for any period of absence from the office or employment shall be treated as emoluments for duties performed in the United Kingdom, except in so far as it is shown that, but for that absence, they would have been emoluments for duties performed outside the United Kingdom.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Where an office or employment is in substance one the duties of which fall in the chargeable period to be performed outside the United Kingdom, then, for the purposes of Cases I and II of Schedule E, there shall be treated as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.
- (3) Subsection (2) above shall not be construed as affecting any question under section 193(1) or paragraph 3 of Schedule 12 as to where any duties are performed or whether a person is absent from the United Kingdom.
- (4) For the purposes of Cases I and II of Schedule E, but subject to section 194(7) and paragraph 5 of Schedule 12, the following duties shall be treated as performed in the United Kingdom, namely—
- (a) the duties of any office or employment under the Crown which is of a public nature and the emoluments of which are payable out of the public revenue of the United Kingdom or of Northern Ireland; and
 - (b) any duties which a person performs on a vessel engaged on a voyage not extending to a port outside the United Kingdom, or which a person resident in the United Kingdom performs on a vessel or aircraft engaged on a voyage or journey beginning or ending in the United Kingdom or on a part beginning or ending in the United Kingdom of any other voyage or journey.
- (5) For the purposes of Case III of Schedule E, emoluments shall be treated as received in the United Kingdom if they are paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and subsections (6) to (9) of section 65 shall apply for the purposes of this subsection as they apply for the purposes of subsection (5) of that section.

133 Voluntary pensions

- (1) Where—
- (a) a person has ceased to hold any office or employment, and
 - (b) a pension or annual payment is paid to him, or to his widow or child, or to any relative or dependant of his, by the person under whom he held the office or by whom he was employed, or by the successors of that person, and
 - (c) that pension or annual payment is paid otherwise than by or on behalf of a person outside the United Kingdom,
- then, notwithstanding that the pension or payment is paid voluntarily or is capable of being discontinued, it shall be deemed to be income for the purposes of assessment to tax, and shall be assessed and charged under Schedule E.
- (2) For the avoidance of doubt, it is hereby declared that the expressions “annuity” and “pension” in Schedule E include respectively an annuity and a pension which is paid voluntarily or is capable of being discontinued.

134 Workers supplied by agencies

- (1) Subject to the provisions of this section, where—
- (a) an individual (“the worker”) renders or is under an obligation to render personal services to another person (“the client”) and is subject to, or to the right of, supervision, direction or control as to the manner in which he renders those services; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) the worker is supplied to the client by or through a third person (“the agency”) and renders or is under an obligation to render those services under the terms of a contract between the worker and the agency (“the relevant contract”); and
- (c) remuneration receivable under or in consequence of that contract would not, apart from this section, be chargeable to income tax under Schedule E,

then, for all the purposes of the Income Tax Acts, the services which the worker renders or is under an obligation to render to the client under that contract shall be treated as if they were the duties of an office or employment held by the worker, and all remuneration receivable under or in consequence of that contract shall be treated as emoluments of that office or employment and shall be assessable to income tax under Schedule E accordingly.

- (2) Subsection (1)(b) above includes cases in which the third person is an unincorporated body of which the worker is a member.
- (3) Subsection (1) above shall apply whether or not the worker renders or is under an obligation to render the services in question as a partner in a firm or a member of an unincorporated body; and where, in any case in which that subsection applies, the worker is a partner in a firm or a member of such a body, remuneration receivable under or in consequence of the relevant contract shall be treated for all the purposes of the Income Tax Acts as income of the worker and not as income of the firm or body.
- (4) For the purposes of this section, any remuneration which the client pays or provides by reason of the worker being a person who renders or is under an obligation to render the services in question shall be treated as receivable in consequence of the relevant contract.
- (5) Subsection (1) above shall not apply—
 - (a) if the services in question are services as an actor, singer, musician or other entertainer or as a fashion, photographic or artist’s model; or
 - (b) if the services in question are rendered wholly in the worker’s own home or at other premises which are neither under the control or management of the client nor premises at which the worker is required, by reason of the nature of the services, to render them; or
 - (c) if in rendering the services the worker is or would be a sub-contractor within the meaning of section 560.
- (6) Where an individual enters into arrangements with another person with a view to the rendering of personal services by the individual, being arrangements such that, if and when he renders any such services as a result of the arrangements, those services will be treated under subsection (1) above as if they were the duties of an office or employment held by him, then for all purposes of the Income Tax Acts any remuneration receivable under or in consequence of the arrangements shall be treated as emoluments of an office or employment held by the individual and shall be assessable to income tax under Schedule E accordingly.
- (7) In this section “remuneration”, in relation to an individual, does not include anything in respect of which he would not have been chargeable to tax under Schedule E if it had been receivable in connection with an office or employment held by him but, subject to that, includes every form of payment and all perquisites, benefits and profits whatsoever.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Shareholdings, loans etc.

135 Gains by directors and employees from share options

- (1) Subject to section 185, where a person realises a gain by the exercise, or by the assignment or release, of a right to acquire shares in a body corporate obtained by that person as a director or employee of that or any other body corporate, he shall be chargeable to tax under Schedule E on an amount equal to the amount of his gain, as computed in accordance with this section.
- (2) Without prejudice to section 185, where tax may by virtue of this section become chargeable in respect of any gain which may be realised by the exercise of a right which is not capable of being exercised more than seven years after it is obtained, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.
- (3) Subject to section 136(4)—
 - (a) the gain realised by the exercise of any such right at any time shall be taken to be the difference between the amount that a person might reasonably expect to obtain from a sale in the open market at that time of the shares acquired and the amount or value of the consideration given whether for them or for the grant of the right; and
 - (b) the gain realised by the assignment or release of any such right shall be taken to be the difference between the amount or value of the consideration for the assignment or release and the amount or value of the consideration given for the grant of the right;

(a just apportionment being made of any entire consideration given for the grant of the right to acquire those shares and other shares or otherwise for the grant of the right to acquire those shares and for something besides).
- (4) For the purposes of subsection (3) above, neither the consideration given for the grant of the right nor any such entire consideration as is mentioned in that subsection shall be taken to include the performance of any duties in or in connection with the office or employment by reason of which the right was granted, and no part of the amount or value of the consideration given for the grant shall be deducted more than once under that subsection.
- (5) Where such a right as is mentioned in subsection (1) above is obtained as mentioned therein and is capable of being exercised later than seven years after it is obtained, and the receipt of the right is chargeable to tax under any other provision of the Tax Acts, then—
 - (a) the tax so charged shall be deducted from any tax which is chargeable under subsection (1) above by reference to the gain realised by the exercise, assignment or release of that right; and
 - (b) for the purpose of any such charge to tax in relation to the receipt of the right, the value of the right shall be taken to be not less than the market value at the time the right is obtained—
 - (i) of the shares which may be acquired by the exercise of the right, or
 - (ii) of shares for which shares so acquired may be exchanged,

reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the shares may be so acquired.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (6) Subject to subsection (7) below, a person shall, in the case of a right granted by reason of his office or employment, be chargeable to tax under this section in respect of a gain realised by another person—
- (a) if the right was granted to that other person, or
 - (b) if the other person acquired the right otherwise than by or under an assignment made by way of a bargain at arm's length, or if the two are connected persons at the time when the gain is realised,
- but in a case within paragraph (b) above the gain realised shall be treated as reduced by the amount of any gain realised by a previous holder on an assignment of the right.
- (7) A person shall not be chargeable to tax by virtue of subsection (6)(b) above in respect of any gain realised by another person if the first-mentioned person was divested of the right by operation of law on his bankruptcy or otherwise, but the other person shall be chargeable to tax in respect of the gain under Case VI of Schedule D.
- (8) In any case where—
- (a) a person has obtained any such right to acquire shares as is mentioned in subsection (1) above (“the first right”); and
 - (b) as to any of the shares to which the first right relates, he omits or undertakes to omit to exercise the right or grants or undertakes to grant to another a right to acquire the shares or any interest in them; and
 - (c) in consideration for or otherwise in connection with that omission, grant or undertaking, he receives any benefit in money or money's worth;
- he shall be treated for the purposes of this section and section 136 as realising a gain by the assignment or release of the first right, so far as it relates to the shares in question, for a consideration equal to the amount or value of the benefit referred to in paragraph (c) above.
- (9) Where subsection (8) above has had effect on any occasion, nothing in that subsection affects the application of this section in relation to a gain realised on a subsequent occasion, except that on that subsequent occasion so much of the consideration given for the grant of the first right as was deducted on the first occasion shall not be deducted again.

136 Provisions supplementary to section 135

- (1) If a right to acquire shares in a body corporate is assigned or released in whole or in part for a consideration which consists of or comprises another right to acquire shares in that or any other body corporate, that other right shall not be treated as consideration for the assignment or release, but section 135 and this section shall apply in relation to it as they apply in relation to the right assigned or released and as if the consideration for its acquisition—
- (a) did not include the value of the right assigned or released, but
 - (b) did include the amount or value of the consideration given for the grant of the right assigned or released so far as that has not been offset by any valuable consideration for the assignment or release other than the consideration consisting of the other right.
- (2) If—
- (a) as a result of two or more transactions a person ceases to hold a right to acquire shares in a body corporate and he or a connected person comes to hold another

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

right to acquire shares in that or any other body corporate (whether or not acquired from the person to whom the other right was assigned), and

- (b) any of those transactions was effected under arrangements to which two or more persons holding rights in respect of which tax may be chargeable under this section were parties,

those transactions shall be treated for the purposes of subsection (1) above as a single transaction whereby the one right is assigned for a consideration which consists of or comprises the other right.

- (3) Subsection (2) above applies in relation to two or more transactions whether they involve an assignment preceding, coinciding with or subsequent to an acquisition.

- (4) In the case of a right to acquire shares granted before 3rd May 1966—

- (a) the amount of the gain realised at any time by the exercise, or by the assignment or release, of the right shall not exceed the difference between the market value of those shares at that time and their market value on 3rd May 1966 (and no gain shall be treated as so realised unless the later value exceeds the earlier value); and
- (b) subsection (2) of section 135 shall not affect tax chargeable under Case I of Schedule E in respect of the receipt of the right, but the amount, if any, on which tax is so chargeable shall be taken into account under subsection (3)(a) and (b) of that section in relation to the gain realised by the exercise or by the assignment or release, of the right as if that amount formed part (in addition to any other amount) of the consideration for the grant of the right.

- (5) For the purposes of this section and section 135—

- (a) references to the release of a right include references to agreeing to the restriction of the exercise of the right;
- (b) “director” means—
- (i) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or similar body;
 - (ii) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person;
 - (iii) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate;
- and includes any person who is to be or has been a director;
- (c) “employee”, in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee; and
- (d) in so far as the context permits, “shares” includes stock;

and this section and section 135 shall apply in relation to any securities issued by a body corporate as they apply to shares in that body corporate.

- (6) Where in any year of assessment a body corporate grants a right in respect of which tax may become chargeable under section 135, or allots or transfers any shares in pursuance of such a right, or receives notice of the assignment of such a right or provides any benefit in money or money’s worth—

- (a) for the assignment or for the release in whole or in part of such a right; or
- (b) for or in connection with an omission or undertaking to omit to exercise such a right; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (c) for or in connection with the grant or undertaking to grant a right to acquire shares or an interest in shares to which such a right relates;
- it shall deliver particulars thereof in writing to the inspector not later than 30 days after the end of that year.

137 Payment of tax under section 135 by instalments

- (1) In any case where—
- (a) for any year of assessment a person is chargeable to tax under Schedule E, by virtue of section 135, on an amount equal to a gain realised by the exercise of a right to acquire shares which was obtained before 6th April 1984; and
 - (b) the shares acquired in the exercise of that right were acquired for a consideration which, subject to subsection (2) below, was not less than the market value (determined as for the purposes of the 1979 Act) of shares of the same class at the time the right was granted or, if the right was granted before 6th April 1982, 90 per cent. of that market value; and
 - (c) following an assessment for the year in which that right was exercised (“the relevant year”) an amount of tax chargeable by virtue of section 135 in respect of the amount referred to in paragraph (a) above and exceeding £250 is payable to the collector pursuant to regulations under section 203; and
 - (d) the person concerned makes an election in accordance with subsection (3) below,
- he shall be entitled to pay tax by instalments in accordance with subsection (4) below.
- (2) Shares which are acquired for a consideration less than that required by paragraph (b) of subsection (1) above by reason only of a diminution in the market value of shares of that class (determined as for the purposes of the 1979 Act) which is attributable solely to the share capital of the company issuing the shares being varied after the right to acquire the shares was granted, shall for the purposes of that paragraph be regarded as having been acquired for a consideration not less than that required by that paragraph.
- (3) An election under this section shall be made by notice to the inspector before the expiry of the period of 60 days beginning immediately after the end of the relevant year.
- (4) Where an election has been made under this section the tax referred to in subsection (1) (c) above shall, subject to subsection (5) and (6) below, be paid in five equal instalments as follows—
- (a) the first shall be due and payable at the expiry of the period of 14 days beginning on the date on which application for the tax is made pursuant to regulations under section 203;
 - (b) the fifth shall be due and payable on the last day of the fifth year following the end of the relevant year; and
 - (c) the second, third and fourth instalments shall be due on such dates as will secure, so far as may be, that the interval between any two consecutive dates is the same.
- (5) In any case where the date which, apart from this subsection, would be the due date for the fifth instalment of tax under subsection (4) above is earlier than the due date referred to in paragraph (a) of that subsection, all five instalments shall be due on the later date.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (6) Tax which, by virtue of an election under this section, is not yet due and payable in accordance with subsection (4) above may nevertheless be paid at any time and shall become due and payable forthwith if the person who made the election becomes bankrupt under the law of any part of the United Kingdom.
- (7) Subject to any other provision of the Income Tax Acts requiring income of any description to be treated as the highest part of a person's income, for the purposes of paragraph (c) of subsection (1) above in determining what tax is chargeable on a person by virtue of section 135 in respect of the amount referred to in paragraph (a) of that subsection, that amount shall be treated as the highest part of his income for the relevant year.

138 Share acquisitions by directors and employees

- (1) Subject to section 185 and the following provisions of this section, where a person has acquired or acquires shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a director or employee of that or any other body corporate, and not in pursuance of an offer to the public—
 - (a) if the market value of the shares at the end of the period mentioned in subsection (9) below exceeds their market value at the time of the acquisition, he shall be chargeable to tax under Schedule E for the year of assessment in which that period ends on an amount equal, except as provided by subsection (8) below, to the excess (or, if his interest is less than the full beneficial ownership, such part of that amount as corresponds to his interest);
 - (b) if he receives, by virtue of his ownership of or interest in the shares, any benefit not received by the majority of persons who—
 - (i) hold shares forming part of the ordinary share capital of the same body corporate; and
 - (ii) have acquired the shares otherwise than as mentioned above;
 and the benefit is not otherwise chargeable to income tax, he shall be chargeable to tax under Schedule E for the year of assessment in which he receives the benefit on an amount equal to the value of the benefit;
 and any amount chargeable under this subsection shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (2) Subsection (1) above does not apply if the acquisition—
 - (a) was made in pursuance of arrangements under which employees of a body corporate receive as part of their emoluments shares or interests in shares in that body or in a body controlling it to an extent determined in advance by reference to the profits of either body; and
 - (b) where the arrangements were made or modified after 22nd March 1973, was of shares or an interest in shares which satisfy the conditions set out in subsection (4)(a) below and the arrangements satisfy the condition set out in subsection (4)(b) below.
- (3) Subsection (1)(a) above does not apply if—
 - (a) the acquisition was an acquisition of shares in a body and either of the following conditions was satisfied immediately after the acquisition, namely—
 - (i) that the shares were not subject to such restrictions as are specified in subsection (6) below, and were not exchangeable for shares subject to

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- such restrictions, and the majority of the available shares of the same class was acquired otherwise than as mentioned in subsection (1) above; or
- (ii) that the shares were not subject to such restrictions as are specified in paragraph (a) or (b) of subsection (6) below and were not exchangeable for shares subject to such restrictions, and the majority of the available shares of the same class was acquired by persons who were or had been employees or directors of, or of a body controlled by, that body and who were together able as holders of the shares to control that body; or
- (b) the acquisition was an acquisition after 5th April 1984 of an interest in shares which consists of units in an authorised unit trust and—
- (i) prior to the acquisition the unit trust was approved by the Board for the purposes of this section and, at the time of the acquisition, continues to be so approved, and
- (ii) the condition set out in subsection (7) below is fulfilled with respect to the body corporate (in that subsection referred to as “the relevant company”) directorship of or employment by which gave rise to the right or opportunity by virtue of which the acquisition was made; or
- (c) the acquisition took place before 6th April 1981.
- (4) The conditions referred to in subsection (2)(b) above are as follows—
- (a) that the shares—
- (i) are not subject to such restrictions as will or may result in the person acquiring the shares or an interest in the shares obtaining a benefit through an increase, subsequent to the acquisition, of the value or the value to him of the shares or interest; and
- (ii) cannot (whether by one transaction or a series of transactions) be exchanged for or converted into shares which are subject to such restrictions; and
- (iii) are either shares of a class quoted on a recognised stock exchange or are shares in a company which is not under the control of another company;
- (b) that the arrangements allow every full-time employee of the company concerned who—
- (i) has been a full-time employee of that company for a continuous period of not less than five years, and
- (ii) is chargeable to tax in respect of his employment under Case I of Schedule E, and
- (iii) is not less than 25 years old, to acquire shares or interests in shares of the same class on similar terms.
- (5) For the purposes of subsection (3)(a) above—
- (a) shares in a body are available shares if they are not held by or for the benefit of an associated company of that body; and
- (b) shares are exchangeable for other shares if (whether by one transaction or a series of transactions) they can be exchanged for or converted into the other shares.
- (6) The restrictions referred to in subsection (3)(a) above are—
- (a) restrictions not attaching to all shares of the same class; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) restrictions ceasing or liable to cease at some time after the acquisition; or
 - (c) restrictions depending on the shares being or ceasing to be held by directors or employees of any body corporate (other than such restrictions imposed by a company's articles of association as require shares to be disposed of on ceasing to be so held).
- (7) The condition referred to in subsection (3)(b) above is fulfilled with respect to the relevant company if, for no continuous period of one month or more, throughout which any director or employee of the relevant company either—
- (a) has, by virtue of his office or employment, any such right or opportunity as is referred to in subsection (1) above to acquire units in the unit trust, or
 - (b) retains any beneficial interest in any units in the unit trust which he acquired in pursuance of such a right or opportunity,
- do investments in the relevant company and in any other company in relation to which the relevant company is an associated company make up more than 10 per cent. by value of the investments subject to the trusts of the unit trust.
- (8) The amount on which or on part of which the person making the acquisition is chargeable to tax under subsection (1)(a) above (“the chargeable amount”) shall, in the following cases, be reduced as follows, that is to say—
- (a) where, in accordance with the terms on which the acquisition of the shares was made, the consideration for the acquisition is subsequently increased, the chargeable amount shall be reduced by an amount equal to the increase; and
 - (b) where, in accordance with those terms, the shares are subsequently disposed of for a consideration which is less than their market value at the time of the disposal, the chargeable amount shall be reduced so as to be equal to the excess of that consideration over the market value of the shares at the time of the acquisition;
- and similarly where the interest acquired is less than the full beneficial ownership, and such assessments, alterations of assessments or repayments of tax shall be made as may be necessary to give effect to the reduction.
- (9) The period referred to in subsection (1)(a) above is a period ending at the earliest of the following times—
- (a) the expiration of seven years from the acquisition of the shares or interest in the shares;
 - (b) the time when the person making the acquisition ceases to have any beneficial interest in the shares;
 - (c) in relation only to a person who acquires shares, the time when by reason of their ceasing to be subject to such restrictions as are specified in subsection (6) above either of the conditions in subsection (3)(a) above would be satisfied in relation to the shares if they had been acquired at that time;
- and for the purposes of subsection (1)(a) and paragraph (b) above a person whose beneficial interest in shares is reduced shall be treated as ceasing to have an interest in such part of the shares as is proportionate to the reduction.
- (10) Subsection (11) below applies where—
- (a) a person has acquired shares or an interest in shares as mentioned in subsection (1) above (and the shares which he acquires or in which he acquires an interest are in sub-paragraphs (b) and (c) and subsection (11) below referred to as “the original shares”); and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) the circumstances of his acquisition of the original shares are such that the application of subsection (1)(a) above is not excluded; and
 - (c) after 18th March 1986 by virtue of his holding of the original shares or the interest in them he acquires (whether or not for consideration) additional shares or an interest in additional shares (and the shares which he so acquires or in which he so acquires an interest are in subsection (11) below referred to as “the additional shares”).
- (11) Where this subsection applies—
- (a) the additional shares or, as the case may be, the interest in them shall be treated as having been acquired as mentioned in subsection (1) above and in circumstances falling within subsection (10)(b) above and, for the purposes of subsection (9)(a) above, as having been acquired at the same time as the original shares or the interest in them;
 - (b) for the purposes of subsections (1)(a) and (8) above, the additional shares and the original shares shall be treated as one holding of shares and the market value of the shares comprised in that holding at any time shall be determined accordingly (the market value of the original shares at the time of acquisition being attributed proportionately to all the shares in the holding); and
 - (c) for the purposes of those subsections, any consideration given for the acquisition of the additional shares or the interest in them shall be taken to be an increase falling within subsection (8)(a) above in the consideration for the original shares or the interest in them.
- (12) Subsection (1)(b) above does not apply where the benefit is received by virtue of a person’s ownership of or of an interest in shares which were acquired before 6th April 1972.

139 Provisions supplementary to section 138

- (1) Where—
- (a) a director or employee of a body corporate acquires shares in pursuance of an opportunity to acquire shares of that class offered to directors and employees of the body in their capacity as such (“the discount offer”); and
 - (b) the discount offer is made in conjunction with an offer to the public (“the main offer”) under which shares of the same class may be acquired on the same terms, except that a discount in price is offered to directors and employees; and
 - (c) the director or employee is chargeable to tax under Schedule E on an amount equal to the discount in the price of the shares acquired by him; and
 - (d) at least 75 per cent. of the aggregate number of shares of the class in question which are acquired in pursuance of the discount offer and the main offer taken together are shares acquired in pursuance of the main offer,
- he shall be treated for the purposes of section 138(1) as acquiring the shares in pursuance of an offer to the public.
- (2) Where a director or employee acquires an interest in shares, subsection (1) above shall apply as if the references in that subsection to the acquisition of shares were references to the acquisition of an interest in shares.
- (3) For the purposes of section 138 and this section, where a person acquires any shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

that or any other body corporate, the shares or interest shall be deemed to be acquired by the director or employee, and section 32A(4) of the 1979 Act shall apply with the necessary modifications; and where that person receives a benefit as mentioned in section 138(1)(b) the benefit shall be deemed to be received by the director or employee.

- (4) For the purposes of section 138, a person who disposes of shares or an interest in shares otherwise than by a bargain at arm's length with a person who is not connected with him shall be deemed not to cease to have a beneficial interest in the shares.
- (5) Where in any year of assessment a person acquires shares or an interest in shares as mentioned in section 138(1) (disregarding subsections (1) and (2) above), the body from which the shares are or the interest is acquired shall deliver to the inspector within 30 days of the end of that year particulars in writing of the shares and the acquisition.
- (6) The Board may by notice require the managers or trustees of any unit trust scheme which is an authorised unit trust approved by the Board for the purposes of section 138 to furnish to the Board within such time as they may direct (but not being less than 30 days) such information as the Board think necessary for the purposes of enabling them to determine—
 - (a) whether the condition in subsection (7) of that section is being or has at any time been fulfilled; and
 - (b) the liability to tax of any unit holder whose rights were acquired as mentioned in subsection (1) of that section.
- (7) Subject to subsection (9) below, in determining for the purposes of section 138 (including any valuation made for those purposes) whether shares which, or interests in which, have been acquired or are or are to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or any interest in them or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantages to him or a person connected with him, except where the restriction is imposed as a condition of a loan which is not a related loan as defined by subsection (8) below.

This subsection does not apply where the person acquired the shares before 19th October 1972.

- (8) A loan made to any person is a related loan for the purposes of subsection (7) above if—
 - (a) it is made, arranged, guaranteed or in any way facilitated by—
 - (i) the body corporate of which he is a director or employee, or
 - (ii) an associated company of that body, or
 - (iii) if that body or an associated company of it is a close company, any person having a material interest in the close company; or
 - (b) it is made to a person connected with another person and would have been such a loan if it had been made to that other person;

but a loan made by the body corporate, associated company or person mentioned in paragraph (a) above is not a related loan if that body, company or person carries on a business of making personal loans and the loan is made in the ordinary course of that business.

- (9) For the purposes of section 138(3)(a), shares acquired by any person shall not, by virtue of subsection (7) above, be regarded as subject to any restriction by reason only

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of any contract, agreement, arrangement or condition providing for the disposal of the shares, when that person ceases to hold the office or employment by virtue of which he acquired the shares, to a person nominated in accordance with the contract, agreement, arrangement or condition if he is required to dispose of them at a price not exceeding their market value.

- (10) Any reference in subsection (7) above to a contract, agreement, arrangement or condition does not include a reference 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 Rules set out in the Model Code for Securities Transactions by Directors of Listed Companies issued by the Stock Exchange in November 1984.
- (11) In section 138 and this section—
- “associated company” has the meaning given by section 416;
 - “control” has the meaning given by section 840;
 - “director” includes a person who is to be a director;
 - “employee” includes a person who is to be an employee;
 - “full-time”, in relation to an employee, means required to devote substantially the whole of his time to service as an employee;
 - “shares” includes stock and securities and references to an interest in any shares include references to the proceeds of sale of part of the shares; and
 - “units”, in relation to an authorised unit trust, means an entitlement to a share in the investments subject to that trust.
- (12) For the purposes of section 138 and this section, section 168(11) shall apply for determining whether a person has a material interest in a company, but with the omission of the words following “417(3)”.
- (13) If, on a person ceasing to have a beneficial interest in any shares, he acquires, after 18th March 1986, other shares or an interest in other shares and the circumstances are such that, for the purposes of sections 78 to 81 of the 1979 Act (reorganisations etc.) the shares in which he ceases to have a beneficial interest constitute original shares and the other shares constitute a new holding—
- (a) section 78 of that Act (which equates the original shares with the new holding) shall apply for the purposes of this section and section 138;
 - (b) if any such consideration is given for the new holding as is mentioned in section 79(1) of that Act, it shall be treated for the purposes of this section and section 138 as an increase falling within section 138(8)(a) in the consideration for the shares; and
 - (c) if any such consideration is received for the disposal of the original shares as is mentioned in section 79(2) of the 1979 Act—
 - (i) the consideration shall be apportioned among the shares comprised in the new holding, and
 - (ii) the amount which, apart from this paragraph, would at any subsequent time be the market value of any of those shares shall be taken to be increased by the amount of the consideration apportioned to them;and in paragraphs (a) to (c) above “the original shares” shall be construed in accordance with sections 78 to 81 of the 1979 Act.
- (14) In any case where section 138(1) applies and the acquisition was an acquisition of units in an authorised unit trust—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) any reference in section 138(1)(a), (8) or (9) or subsection (4) above or section 32A(4) of the 1979 Act to shares shall be construed as references to units; and
- (b) any reference in those provisions to an interest in shares shall be omitted.

140 Further interpretation of sections 135 to 139

- (1) For the purposes of section 135, 136, 138 or 139, a right to acquire shares is obtained by a person as a director or employee (within the meaning of the section in question) of a body corporate—
 - (a) if it is granted to him by reason of his office or employment as such a director or employee who is chargeable to tax in respect of that office or employment under Case I of Schedule E; or
 - (b) if the right is assigned to him and was granted by reason of any such office or employment of his to some other person;
 and paragraph (a) above shall apply to a right granted by reason of a person's office or employment after he has ceased to hold it if it would apply to a right so granted in the last chargeable period in which he did hold it.
- (2) For those purposes any question whether a person is connected with another shall be determined in accordance with section 839.
- (3) For those purposes—
 - “market value” has the same meaning as, for the purposes of the 1979 Act, it has by virtue of section 150 of that Act; and
 - “securities” has the meaning given by section 254(1).

Vouchers etc.

141 Non-cash vouchers

- (1) Subject to the following provisions of this section and section 157(3), where a non-cash voucher provided for an employee by reason of his employment is received by the employee, then, for the purposes of the Income Tax Acts—
 - (a) he shall be treated as having received in the relevant year of assessment an emolument from his employment of an amount equal to the expense incurred by the person providing the voucher in or in connection with the provision of the voucher and the money, goods or services for which it is capable of being exchanged; and
 - (b) any money, goods or services obtained by the employee or any other person in exchange for the voucher shall be disregarded;
 and the expense incurred as mentioned in paragraph (a) above by the person providing the voucher is referred to below as “the chargeable expense”.
- (2) In subsection (1)(a) above “the relevant year of assessment” means—
 - (a) in relation to a cheque voucher, the year of assessment in which the voucher is handed over in exchange for money, goods or services (a voucher which is posted being treated as handed over at the time of posting); and
 - (b) in relation to any other non-cash voucher, the year of assessment in which the chargeable expense is incurred or, if later, the year of assessment in which the voucher is received by the employee.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) There shall be deductible under section 198, 201 or 332(3) from the amount taxable under subsection (1) above such amounts, if any, as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.
- (4) The chargeable expense shall be treated as reduced by any part of that expense made good to the person incurring it by the employee.
- (5) Where a non-cash voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsections (1) and (2) above shall have effect as if the employee had received the voucher at the time when it was so appropriated.
- (6) Subsections (1) and (2) above shall not apply in relation to a transport voucher provided for an employee of a passenger transport undertaking under arrangements in operation on 25th March 1982 and intended to enable that employee or a relation of his to obtain passenger transport services provided by—
 - (a) his employer;
 - (b) a subsidiary of his employer;
 - (c) a body corporate of which his employer is a subsidiary; or
 - (d) another passenger transport undertaking.

- (7) In this section—

“cheque voucher” means a cheque provided for an employee and intended for use by him wholly or mainly for payment for particular goods or services or for goods or services of one or more particular classes; and, in relation to a cheque voucher, references to a voucher being exchanged for goods or services shall be construed accordingly;

“passenger transport undertaking” means an undertaking whose business consists wholly or mainly in the carriage of passengers and includes a subsidiary of such an undertaking;

“subsidiary” means a wholly owned subsidiary within the meaning of section 736(5)(b) of the Companies Act 1985;

“transport voucher” means any ticket, pass or other document or token intended to enable a person to obtain passenger transport services (whether or not in exchange for it) and, in relation to a transport voucher, references to a voucher being exchanged for services shall be construed as references to it being exchanged for, or otherwise being used to procure, services; and

“non-cash voucher” does not include a cash voucher within the meaning of section 143 but, subject to that, means any voucher, stamp or similar document or token capable of being exchanged (whether singly or together with other such vouchers, stamps, documents or tokens and whether immediately or only after a time) for money, goods or services (or for any combination of two or more of those things) and includes a transport voucher and a cheque voucher.

142 Credit-tokens

- (1) Subject to the provisions of this section and section 157(3), where a credit-token is provided for an employee by reason of his employment, then, for the purposes of the Income Tax Acts—
 - (a) on each occasion on which the employee uses the credit-token to obtain money, goods or services he shall be treated as having received an emolument

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- from his employment of an amount equal to the expense incurred by the person providing the credit-token in or in connection with the provision of the money, goods or services obtained; and
- (b) any money, goods or services obtained by the employee by use of the credit-token shall be disregarded.
- (2) There shall be deductible under section 198, 201 or 332(3) from the amount taxable under subsection (1) above such amounts, if any, as would have been so deductible if the cost of the goods or services in question had been incurred by the employee out of his emoluments.
- (3) The expense incurred by the person providing the credit-token as mentioned in subsection (1)(a) above shall be treated as reduced by any part of that expense made good to that person by the employee.
- (4) In this section “credit-token” means a card, token, document or other thing given to a person by another person who undertakes—
- (a) that on the production of it (whether or not some other action is also required) he will supply money, goods and services (or any of them) on credit; or
- (b) that where, on the production of it to a third party (whether or not some other action is also required) the third party supplies money, goods and services (or any of them), he will pay the third party for them (whether or not taking any discount or commission);
- but does not include a non-cash voucher or a cash voucher.
- (5) For the purposes of subsection (4) above, the use of an object to operate a machine provided by the person giving the object, or by a third party, shall be treated as production of the object to that person or, as the case may be, third party.

143 Cash vouchers taxable under P.A.Y.E

- (1) Where a cash voucher provided for an employee by reason of his employment is received by the employee, then, subject to subsection (5) below, for the purposes of the Income Tax Acts (and in particular section 203)—
- (a) he shall be treated as being paid by his employer, at the time when he receives the voucher, an emolument of his employment equal to the sum of money for which the voucher is capable of being exchanged as mentioned in subsection (3) below; and
- (b) any money obtained by the employee or any other person in exchange for the voucher shall be disregarded.
- (2) Where a cash voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsections (1) and (5) of this section shall have effect as if the employee had received the voucher at the time when it was so appropriated.
- (3) In this section “cash voucher” (subject to subsection (4) below) means any voucher, stamp or similar document capable of being exchanged (whether singly or together with such other vouchers, stamps or documents, and whether immediately or only after a time) for a sum of money greater than, equal to or not substantially less than the expense incurred in providing the voucher by the person who provides it (whether or not it is also capable of being exchanged for goods or services), except that it does not include—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) any document intended to enable a person to obtain payment of the sum mentioned in the document, being a sum which if paid to him directly would not have been chargeable to income tax under Schedule E; or
 - (b) a savings certificate the accumulated interest payable in respect of which is exempt from tax (or would be so exempt if certain conditions were satisfied).
- (4) Where—
- (a) a voucher, stamp or similar document is capable of being exchanged (as mentioned above) for a sum of money substantially less than the expense incurred in providing the voucher by the person who provides it, and
 - (b) the difference or part of the difference represents the cost to that person of providing benefits in connection with sickness, personal injury or death,
- then, in determining whether the voucher, stamp or document is a cash voucher within the meaning of this section, the expense incurred by him in providing it shall be treated as reduced by that difference or part.
- (5) Subsection (1) above shall not apply to a cash voucher received by an employee if, at the time when the voucher is received, the scheme under which it was issued is a scheme approved by the Board for the purposes of this subsection; and the Board shall not approve a scheme for those purposes unless satisfied that it is practicable for income tax in respect of all payments made in exchange for vouchers issued under the scheme to be deducted in accordance with regulations under section 203.

144 Supplementary provisions

- (1) If a person furnishes to the inspector a statement of the cases and circumstances in which non-cash vouchers or credit-tokens are provided for any employees (whether his own or those of anyone else) and the inspector is satisfied that no additional tax is payable under section 141 or 142 by reference to the vouchers or tokens mentioned in the statement, the inspector shall notify the person accordingly and nothing in those sections shall apply to the provision of those vouchers or tokens or their use.
- (2) The inspector may, if in his opinion there is reason to do so, by notice served on the person to whom the notification under subsection (1) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the notification under subsection (1) above had never been given or, as the case may be, it had ceased to have effect on the specified date.
- (3) For the purposes of sections 141 and 142 where a person incurs expense in or in connection with the provision by him of non-cash vouchers or credit-tokens for two or more employees as members of a group or class, the expense incurred in respect of any one of them shall be taken to be such part of that expense as is just and reasonable.
- (4) For the purposes of sections 141, 142 and 143 and this section—
 - (a) a non-cash voucher, cash voucher or credit-token provided for an employee by his employer shall be deemed to be provided for him by reason of his employment; and
 - (b) any reference to a non-cash voucher, cash voucher or credit-token being provided for or received by an employee includes a reference to it being provided for or received by a relation of his.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) In sections 141, 142, 143 and this section—
- “cash voucher” has the meaning given by section 143(3);
 - “credit-token” has the meaning given by section 142(4);
 - “employee” means the holder of any office or employment the emoluments in respect of which fall to be assessed under Schedule E; and related expressions shall be construed accordingly;
 - “non-cash voucher” has the meaning given by section 141(7); and
 - “relation”, with respect to an employee, means his spouse, parent or child, the spouse of his child and any dependant of that employee.

Living accommodation

145 Living accommodation provided for employee

- (1) Subject to the provisions of this section, where living accommodation is provided for a person in any period by reason of his employment, and is not otherwise made the subject of any charge to him by way of income tax, he is to be treated for the purposes of Schedule E as being in receipt of emoluments of an amount equal to the value to him of the accommodation for the period, less so much as is properly attributable to that provision of any sum made good by him to those at whose cost the accommodation is provided.
- (2) The value of the accommodation to the employee in any period is the rent which would have been payable for the period if the premises had been let to him at an annual rent equal to their annual value as ascertained under section 837; but for a period in which those at whose cost the accommodation is provided pay rent at an annual rate greater than the annual value as so ascertained, the value of the accommodation to the employee is an amount equal to the rent payable by them for the period.
- (3) From any amount to be treated as emoluments under subsection (1) above there are deductible under section 198 or 332(3) such amounts (if any) as would have been so deductible if the accommodation had been paid for by the employee out of his emoluments.
- (4) Subject to subsection (5) below, subsection (1) above does not apply to accommodation provided for the employee in any of the following cases—
 - (a) where it is necessary for the proper performance of the employee’s duties that he should reside in the accommodation;
 - (b) where the accommodation is provided for the better performance of the duties of his employment, and his is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees;
 - (c) where there is a special threat to his security, special security arrangements are in force and he resides in the accommodation as part of those arrangements; and in any such case there is no charge to tax under Schedule E (either by virtue of this section or under section 131 or otherwise) in respect of a liability for rates on the premises being discharged for or on behalf of the employee or the employee being reimbursed for the discharge of that liability.
- (5) If the accommodation is provided by a company and the employee is a director of the company or of an associated company, then, except in a case where paragraph (c)

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of subsection (4) above applies, no exemption is given by virtue of that subsection unless, for each employment of his which is employment as director of the company or an associated company, the following conditions are fulfilled, that is—

- (a) he has no material interest in the company, and
 - (b) either his employment is as a full-time working director or the company is non-profit-making (meaning that neither does it carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property) or is established for charitable purposes only.
- (6) If by reason of a person's employment accommodation is provided for others being members of his family or household, he is to be treated under subsections (1) to (3) above as if it were accommodation provided for him.
- (7) For the purposes of this section, living accommodation provided for an employee, or for members of his family or household, by his employer is deemed to be provided by reason of his employment unless—
- (a) the employer is an individual, and it can be shown that he makes the provision in the normal course of his domestic, family or personal relationships; or
 - (b) the accommodation is provided by a local authority for an employee of theirs, and it can be shown that the terms on which it is provided are no more favourable than those on which similar accommodation is provided by the authority for persons who are not their employees but are otherwise similarly circumstanced.
- (8) For the purposes of this section—
- (a) a company is associated with another if one has control of the other or both are under the control of the same person; and
 - (b) the expressions “employment”, “family or household”, “director”, “full-time working director”, “material interest” and (in relation to a body corporate) “control” shall be construed in accordance with subsections (2), (4) and (8) to (12) of section 168 as if this section were included in Chapter II of this Part.

146 Additional charge in respect of certain living accommodation

- (1) This section applies where—
- (a) living accommodation is provided for a person in any period, by reason of his employment;
 - (b) by virtue of section 145 he is treated for the purposes of Schedule E as being in receipt of emoluments of an amount calculated by reference to the value to him of that accommodation, or would be so treated if there were disregarded any sum made good by him to those at whose cost the accommodation is provided; and
 - (c) the cost of providing the accommodation exceeds £75,000.
- (2) Where this section applies, the employee shall be treated for the purposes of Schedule E as being in receipt of emoluments (in addition to those which he is treated as receiving by virtue of section 145) of an amount equal to the additional value to him of the accommodation for the period, less so much of any rent paid by the employee, in respect of the accommodation, to the person providing it as exceeds the value to the employee of the accommodation for the period (as determined under section 145).
- (3) The additional value of the accommodation to the employee in any period is the rent which would have been payable for that period if the premises had been let to him at

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- an annual rent equal to the appropriate percentage of the amount by which the cost of providing the accommodation exceeds £75,000.
- (4) For the purposes of this section, the cost of providing any living accommodation shall be taken to be the aggregate of—
- (a) the amount of any expenditure incurred in acquiring the estate or interest in the property held by a relevant person; and
 - (b) the amount of any expenditure incurred by a relevant person before the year of assessment in question on improvements to the property.
- (5) The aggregate amount mentioned in subsection (4) above shall be reduced by the amount of any payment made by the employee to a relevant person, so far as that amount represents a reimbursement of any such expenditure as is mentioned in paragraph (a) or (b) of that subsection or represents consideration for the grant to the employee of a tenancy of the property.
- (6) Subject to subsection (8) below, where throughout the period of six years ending with the date when the employee first occupied the property, any estate or interest in the property was held by a relevant person (whether or not it was the same estate, interest or person throughout), the additional value shall be calculated as if in subsection (4) above—
- (a) the amount referred to in paragraph (a) were the market value of that property as at that date; and
 - (b) the amount referred to in paragraph (b) did not include expenditure on improvements made before that date.
- (7) In this section, “relevant person” means any of the following—
- (a) the person providing the accommodation;
 - (b) where the person providing the accommodation is not the employee’s employer, that employer;
 - (c) any person, other than the employee, who is connected with a person falling within paragraph (a) or (b) above.
- (8) Subsection (6) above does not apply where the employee first occupied the property before 31st March 1983.
- (9) Any amount which is deductible, by virtue of section 145(3), from an amount to be treated as emoluments under that section may, to the extent to which it exceeds the amount of those emoluments, be deductible from the amount to be treated as emoluments under this section.
- (10) For the purposes of this section, living accommodation shall be treated as provided for a person by reason of his employment if it is so treated for the purposes of section 145; and “employment” has the same meaning in this section as in that.
- (11) In this section—
- “the appropriate percentage” means the rate prescribed by the Treasury under section 160(5) as at the beginning of the year of assessment in question;
 - “property”, in relation to any living accommodation, means the property consisting of that accommodation;
 - “market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market with vacant possession, no reduction being made, in estimating the market value, on account of any option in respect of the property held by the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

employee, or a person connected with him, or by any of the persons mentioned in subsection (7) above; and

“tenancy” includes a sub-tenancy;

and section 839 shall apply for the purposes of this section.

147 Occupation of Chevening House

Section 145 shall not apply in relation to the occupation of Chevening House or any other premises held on the trusts of the trust instrument set out in the Schedule to the Chevening Estate Act 1959 by a person nominated in accordance with those trusts.

Payments on retirement, sick pay etc.

148 Payments on retirement or removal from office or employment

- (1) Subject to the provisions of this section and section 188, tax shall be charged under Schedule E in respect of any payment to which this section applies which is made to the holder or past holder of any office or employment, or to his executors or administrators, whether made by the person under whom he holds or held the office or employment or by any other person.
- (2) This section applies to any payment (not otherwise chargeable to tax) which is made, whether in pursuance of any legal obligation or not, either directly or indirectly in consideration or in consequence of, or otherwise in connection with, the termination of the holding of the office or employment or any change in its functions or emoluments, including any payment in commutation of annual or periodical payments (whether chargeable to tax or not) which would otherwise have been so made.
- (3) For the purposes of this section and section 188, any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it is given.
- (4) Any payment which is chargeable to tax by virtue of this section shall be treated as income received on the following date, that is to say—
 - (a) in the case of a payment in commutation of annual or other periodical payments, the date on which the commutation is effected; and
 - (b) in the case of any other payment, the date of the termination or change in respect of which the payment is made;
 and shall be treated as emoluments of the holder or past holder of the office or employment assessable to tax under Schedule E; and any such payment shall be treated for all the purposes of the Income Tax Acts as earned income.
- (5) In the case of the death of any person who, if he had not died, would have been chargeable to tax in respect of any such payment, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (6) This section shall not apply to any payment made in pursuance of an obligation incurred before 6th April 1960.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (7) Where any payment chargeable to tax under this section is made to any person in any year of assessment, it shall be the duty of the person by whom it is made to deliver particulars thereof in writing to the inspector not later than 30 days after the end of that year.

149 Sick pay

- (1) Where a person holding an employment is absent from work for any period by reason of sickness or disability, any sums which—
- (a) are paid to, or to the order or for the benefit of, that person (or a member of his family or household) in respect of any such absence from work; and
 - (b) are, by reason of his employment, paid as a result of any arrangements entered into by his employer,
- shall be chargeable to income tax under Schedule E as emoluments of the employment for that period if, apart from this section, they would not be so chargeable for that or any other period.
- (2) Where the funds for making payments under any arrangements are attributable partly to contributions made by the employer and partly to contributions made by the persons employed by him, subsection (1) above shall apply only to such part of the sums paid as a result of the arrangements as it is just and reasonable to regard as attributable to the employer's contributions.
- (3) In this section "employment" means an office or employment the emoluments of which fall to be assessed under Schedule E and related expressions shall be construed accordingly; and the reference to a person's family or household is to his spouse, his sons and daughters and their spouses, his parents and his dependants.

150 Job release scheme allowances, maternity pay and statutory sick pay

The following payments shall be charged to income tax under Schedule E by virtue of this section if they would not otherwise be, that is to say—

- (a) allowances paid under a scheme of the kind described in the Job Release Act 1977, being a scheme which provides for the payment of allowances for periods beginning earlier than one year before the date on which the recipient attains pensionable age, as defined in that Act;
- (b) maternity pay (whether paid during the subsistence of a contract of employment or not) within the meaning of section 33 of the Employment Protection (Consolidation) Act 1978 or, in Northern Ireland, Article 15 of the Industrial Relations (No.2) (Northern Ireland) Order 1976;
- (c) payments of statutory sick pay within the meaning of section 1 of the Social Security and Housing Benefits Act 1982 or, in Northern Ireland, Article 3 of the Social Security (Northern Ireland) Order 1982; and
- (d) payments of statutory maternity pay under Part V of the Social Security Act 1986 or, in Northern Ireland, under Part VI of the Social Security (Northern Ireland) Order 1986.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

151 Income support etc

- (1) Subject to the following provisions of this section, payments to any person of income support under the Social Security Act 1986 in respect of any period shall be charged to income tax under Schedule E if during that period—
 - (a) his right to income support is subject to the condition specified in section 20(3)(d)(i) of that Act (availability for employment); or
 - (b) he is one of a married or unmarried couple and section 23 of that Act (trade disputes) applies to him but not to the other person;
- (2) In this section “married couple” and “unmarried couple” have the same meaning as in Part II of the Social Security Act 1986.
- (3) Where the amount of income support paid to any person in respect of any week or part of a week exceeds the taxable maximum for that period as defined below, the excess shall not be taxable.
- (4) Where payments of unemployment benefit and payments of income support are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the taxable maximum for that period within the meaning of subsection (3) above.
- (5) For the purposes of subsections (3) and (4) above, the taxable maximum in respect of a week shall be determined in accordance with subsections (6) to (8) below and the taxable maximum in respect of part of a week shall be equal to one-sixth of the taxable maximum in respect of a week multiplied by the number of days in the part.
- (6) Where the income support is paid to one of a married or unmarried couple in a case not falling within subsection (1)(b) above, the taxable maximum in respect of a week shall be equal to the aggregate of—
 - (a) the weekly rate specified for the week in question in relation to unemployment benefit in paragraph 1 of Part I of Schedule 4 to the Social Security Act 1975; and
 - (b) the increase for an adult dependant specified for that week in paragraph 1(a) of Part IV of that Schedule.
- (7) Where the income support is paid to one of a married or unmarried couple in a case falling within subsection (1)(b) above, the taxable maximum in respect of a week shall—
 - (a) if the applicable amount (within the meaning of Part II of the Social Security Act 1986) consists only of an amount in respect of them, be equal to one half of that amount; and
 - (b) if the applicable amount includes other amounts, be equal to one half of the portion of it which is included in respect of them.
- (8) Where the income support is paid to a person who is not one of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the weekly rate referred to in subsection (6)(a) above.
- (9) In its application to Northern Ireland this section shall have effect as if—
 - (a) for the references to the Social Security Act 1986, to Part II of that Act and to sections 20(3)(d)(i) and 23 of that Act there were substituted respectively references to the Social Security (Northern Ireland) Order 1986, Part III of that Order and Articles 21(3)(d)(i) and 24 of that Order; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) for the references to paragraph 1 of Part 1 of Schedule 4 to the Social Security Act 1975 and paragraph 1(a) of Part IV of that Schedule there were substituted respectively references to paragraph 1 of Part I of Schedule 4 to the Social Security (Northern Ireland) Act 1975 and paragraph 1(a) of Part IV of that Schedule.

152 Notification of amount taxable under section 151

- (1) A benefit officer may by notice notify a person who is taxable in respect of any unemployment benefit or income support of the amount on which he is taxable and any such notification shall state the date on which it is issued and shall inform the person to whom it is given that he may object to the notification by notice given within 60 days after the date of issue of the notification.
- (2) Where—
- (a) no objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below); or
 - (b) an objection is made but is withdrawn by the objector by notice,
- that amount shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (3) Where—
- (a) an objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below), and
 - (b) the benefit officer and the objector come to an agreement that the amount notified should be varied in a particular manner, and
 - (c) the officer confirms the agreement to vary in writing,
- then, subject to subsection (4) below, that amount as so varied shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (4) Subsection (3) above shall not apply if, within 60 days from the date when the agreement was come to, the objector gives notice to the benefit officer that he wishes to repudiate or resile from the agreement.
- (5) An objection to a notification may be made later than 60 days after the date of the issue of the notification if, on an application for the purpose—
- (a) a benefit officer is satisfied that there was a reasonable excuse for not objecting within that time, and
 - (b) the objection was made thereafter without unreasonable delay, and
 - (c) the officer gives consent in writing;
- and if the officer is not so satisfied he shall refer the application for determination—
- (i) by the General Commissioners for the division in which the objector ordinarily resides or,
 - (ii) in a case where an appeal has been made against an assessment in respect of income including the amount in question, the General Commissioners or the Special Commissioners having jurisdiction in that appeal.
- (6) Where a benefit officer has notified an amount to a person under subsection (1) above, he may by another notice notify the person of an alteration in the amount previously

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

notified and, if he does so, the original notification shall be cancelled and this section shall apply to such a subsequent notification as it applies to the original notification.

- (7) In this section “benefit officer” means the appropriate officer, in Great Britain, of the Department of Employment or of the Department of Health and Social Security, as the case may be, or, in Northern Ireland, of the Department of Health and Social Services.

CHAPTER II

SUPPLEMENTARY CHARGING PROVISIONS APPLICABLE TO DIRECTORS AND HIGHER-PAID EMPLOYEES AND OFFICE HOLDERS

Expenses

153 Payments in respect of expenses

- (1) Subject to the provisions of this Chapter, where in any year a person is employed in director’s or higher-paid employment and by reason of his employment there are paid to him in respect of expenses any sums which, apart from this section, are not chargeable to tax as his income, those sums are to be treated as emoluments of the employment and accordingly chargeable to income tax under Schedule E.
- (2) Subsection (1) above is without prejudice to any claim for deductions under section 198, 201 or 332(3).
- (3) The reference in subsection (1) above to sums paid in respect of expenses includes any sums put at the employee’s disposal by reason of his employment and paid away by him.

Benefits in kind

154 General charging provision

- (1) Subject to section 163, where in any year a person is employed in director’s or higher-paid employment and—
- (a) by reason of his employment there is provided for him, or for others being members of his family or household, any benefit to which this section applies; and
 - (b) the cost of providing the benefit is not (apart from this section) chargeable to tax as his income,
- there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit.
- (2) The benefits to which this section applies are accommodation (other than living accommodation), entertainment, domestic or other services, and other benefits and facilities of whatsoever nature (whether or not similar to any of those mentioned above in this subsection), excluding however—
- (a) any benefit consisting of the right to receive, or the prospect of receiving, any sums which would be chargeable to tax under section 149; and
 - (b) any benefit chargeable under section 157, 158, 160 or 162;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

and subject to the exceptions provided for by section 155.

- (3) For the purposes of this section and sections 155 and 156, the persons providing a benefit are those at whose cost the provision is made.

155 Exceptions from the general charge

- (1) Where the benefit of a car is taxable under section 157, section 154 does not apply to any benefit in connection with the car other than a benefit in connection with the provision of a driver for the car.
- (2) Section 154 does not apply where the benefit consists in provision for the employee, in premises occupied by the employer or others providing it, of accommodation, supplies or services used by the employee solely in performing the duties of his employment.
- (3) Where living accommodation is provided by reason of a person's employment—
- (a) alterations and additions to the premises concerned which are of a structural nature, and
 - (b) repairs to the premises of a kind which, if the premises were let under a lease to which section 11 of the Landlord and Tenant Act 1985 (repairing obligations) applies, would be the obligation of the lessor under the covenants implied by subsection (1) of that section,
- are not benefits to which section 154 applies.
- (4) Section 154 does not apply to a benefit consisting in the provision by the employee's employer for the employee himself, or for the spouse, children or dependants of the employee, of any pension, annuity, lump sum, gratuity or other like benefit to be given on the employee's death or retirement.
- (5) Section 154 does not apply to a benefit consisting in the provision by the employee's employer of meals in any canteen in which meals are provided for the staff generally.
- (6) Section 154 does not apply where the benefit consists—
- (a) in providing the employee with medical treatment outside the United Kingdom (including providing for him to be an in-patient) in a case where the need for the treatment arises while the employee is outside the United Kingdom for the purpose of performing the duties of his employment; or
 - (b) in providing insurance for the employee against the cost of such treatment in such a case;
- and for the purpose of this subsection, medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity or defect.

156 Cash equivalents of benefits charged under section 154

- (1) The cash equivalent of any benefit chargeable to tax under section 154 is an amount equal to the cost of the benefit, less so much (if any) of it as is made good by the employee to those providing the benefit.
- (2) Subject to the following subsections, the cost of a benefit is the amount of any expense incurred in or in connection with its provision, and (here and in those subsections) includes a proper proportion of any expense relating partly to the benefit and partly to other matters.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Where the benefit consists in the transfer of an asset by any person, and since that person acquired or produced the asset it has been used or has depreciated, the cost of the benefit is deemed to be the market value of the asset at the time of transfer.
- (4) Where the asset referred to in subsection (3) above is not a car and before the transfer a person (whether or not the transferee) has been chargeable to tax in respect of the asset in accordance with subsection (5) below, the amount which under subsection (3) above is deemed to be the cost of the benefit shall (if apart from this subsection it would be less) be deemed to be—
 - (a) the market value of the asset at the time when it was first applied (by those providing the benefit in question) for the provision of any benefit for a person, or for members of his family or household, by reason of his employment, less
 - (b) the aggregate of the amounts taken into account as the cost of the benefit in charging tax in accordance with subsection (5) below in the year or years up to and including that in which the transfer takes place.
- (5) Where the benefit consists in an asset being placed at the employee's disposal, or at the disposal of others being members of his family or household, for his or their use (without any transfer of the property in the asset), or of its being used wholly or partly for his or their purposes, then the cost of the benefit in any year is deemed to be—
 - (a) the annual value of the use of the asset ascertained under subsection (6) below; plus
 - (b) the total of any expense incurred in or in connection with the provision of the benefit excluding—
 - (i) the expense of acquiring or producing it incurred by the person to whom the asset belongs; and
 - (ii) any rent or hire charge payable for the asset by those providing the benefit.
- (6) Subject to subsection (7) below, the annual value of the use of the asset, for the purposes of subsection (5) above—
 - (a) in the case of land, is its annual value determined in accordance with section 837; and
 - (b) in any other case is 20 per cent. of its market value at the time when it was first applied (by those providing the benefit in question) in the provision of any benefit for a person, or for members of his family or household, by reason of his employment.
- (7) Where there is payable, by those providing the benefit, any sum by way of rent or hire-charge for the asset, the annual amount of which is equal to, or greater than, the annual value of the use of the asset as ascertained under subsection (6) above, that amount shall be substituted for the annual value in subsection (5)(a) above.
- (8) From the cash equivalent there are deductible in each case under section 198, 201 or 332(3) such amounts (if any) as would have been so deductible if the cost of the benefit had been incurred by the employee out of his emoluments.
- (9) In the case of assets first applied before 6th April 1980 by those providing the benefit in question in the provision of any benefit for a person, or for members of his family or household, by reason of his employment—
 - (a) subsection (4) above shall not have effect; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) in subsection (6)(b) above for the words “20 per cent.” there shall be substituted the words “10 per cent.”.

157 Cars available for private use

- (1) Where in any year in the case of a person employed in director’s or higher-paid employment, a car is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and—
- (a) it is so made available by reason of his employment and it is in that year available for his or their private use; and
 - (b) the benefit of the car is not (apart from this section) chargeable to tax as the employee’s income,
- there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.
- (2) Subject to the provisions of this section, the cash equivalent of that benefit is to be ascertained—
- (a) from Tables A and B in Part I of Schedule 6, in the case of cars with an original market value of up to £19,250; and
 - (b) from Table C in that Part in the case of cars with an original market value of more than that amount;
- the equivalent in each case being shown in the second or third column of the applicable Table by reference to the age of the car at the end of the relevant year of assessment.
- (3) Where in any year the benefit of a car is chargeable to tax under this section as the employee’s income he shall not be taxable—
- (a) under Schedule E in respect of the discharge of any liability of his in connection with the car;
 - (b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—
 - (i) for obtaining money which is spent on goods or services in connection with the car; or
 - (ii) for obtaining such goods or services;
 - (c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the car.
- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made—
- (a) increase or further increase the money sum specified in subsection (2)(a) above;
 - (b) with or without such an increase, substitute for any of the three Tables a different Table of cash equivalents;
 - (c) increase or further increase the money sum specified in paragraph 1(1) of Part II of Schedule 6.
- (5) Part II of Schedule 6 has effect—
- (a) with respect to the application of the Tables in Part I; and
 - (b) for the reduction of the cash equivalent under this section in cases where the car has not been available for the whole of the relevant year, or the use of it

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

has been preponderantly business use, or the employee makes any payment for the use of it.

158 Car fuel

- (1) Where in any year in the case of a person employed in director's or higher-paid employment fuel is provided by reason of his employment for a car which is made available as mentioned in section 157, an amount equal to whatever is the cash equivalent of that benefit in that year shall be treated as emoluments of the employment and, accordingly, shall be chargeable to income tax under Schedule E.
- (2) Subject to the provisions of this section, the cash equivalent of that benefit shall be ascertained from Table A below where the car has an internal combustion engine with one or more reciprocating pistons and from Table B below in the case of other cars; and for the purposes of Table A below a car's cylinder capacity is the capacity of its engine calculated as for the purposes of the Vehicles (Excise) Act 1971 or the Vehicles (Excise) Act (Northern Ireland) 1972.

TABLE A

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£480
More than 1,400 but not more than 2,000	£600
More than 2,000	£900

TABLE B

<i>Original market value of car</i>	<i>Cash equivalent</i>
Less than £6,000	£480
£6,000 or more but less than £8,500	£600
£8,500 or more	£900

- (3) Without prejudice to the generality of subsection (1) above, fuel is provided for a car if—
 - (a) any liability in respect of the provision of fuel for the car is discharged;
 - (b) a non-cash voucher or a credit-token is used to obtain fuel for the car or money which is spent on such fuel;
 - (c) any sum is paid in respect of expenses incurred in providing fuel for the car.

In this subsection “non-cash voucher” and “credit-token” have the meanings given by section 141(7) and 142(4) respectively.

- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made substitute a different Table for either of the Tables in subsection (2) above.
- (5) Where paragraph 2 or 3 of Part II of Schedule 6 applies to reduce the cash equivalent of the benefit of the car for which the fuel is provided, the same reduction shall be made to the cash equivalent of the benefit of the fuel ascertained under subsection (2) above.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (6) If in the relevant year—
- (a) the employee is required to make good to the person providing the fuel the whole of the expense incurred by him in or in connection with the provision of fuel for his private use and he does so; or
 - (b) the fuel is made available only for business travel;
- the cash equivalent is nil.

159 Pooled cars

- (1) This section applies to any car in the case of which the inspector is satisfied (whether on a claim under this section or otherwise) that it has for any year been included in a car pool for the use of the employees of one or more employers.
- (2) A car is to be treated as having been so included for a year if—
- (a) in that year it was made available to, and actually used by, more than one of those employees and, in the case of each of them, it was made available to him by reason of his employment but it was not in that year ordinarily used by one of them to the exclusion of the others; and
 - (b) in the case of each of them any private use of the car made by him in that year was merely incidental to his other use of it in the year; and
 - (c) it was in that year not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
- (3) Where this section applies to a car, then for the year in question the car is to be treated under sections 154 and 157 as not having been available for the private use of any of the employees.
- (4) A claim under this section in respect of a car for any year may be made by any one of the employees mentioned in subsection (2)(a) above (referred to below as “the employees concerned”) or by the employer on behalf of all of them.
- (5) On an appeal against the decision of the inspector on a claim under this section all the employees concerned may take part in the proceedings, and the determination of the body of Commissioners or county court appealed to shall be binding on all those employees, whether or not they have taken part in the proceedings.
- (6) Where an appeal against the decision of the inspector on a claim under this section has been determined, no appeal against the inspector’s decision on any other such claim in respect of the same car and the same year shall be entertained.

160 Beneficial loan arrangements

- (1) Where in the case of a person employed in director’s or higher-paid employment there is outstanding for the whole or part of a year a loan (whether to the employee himself or a relative of his) of which the benefit is obtained by reason of his employment and—
- (a) no interest is paid on the loan for that year; or
 - (b) the amount of interest paid on it for the year is less than interest at the official rate,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit of the loan for that year.

- (2) Where in the case of a person employed in director's or higher-paid employment—
- (a) there is in any year released or written off the whole or part of a loan (whether to the employee himself or a relative of his, and whether or not such a loan as is mentioned in subsection (1) above), and
 - (b) the benefit of that loan was obtained by reason of his employment,
- then there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to that which is released or written off.
- (3) Where there was outstanding at any time when a person was in director's or higher-paid employment the whole or part of a loan to him (or to a relative of his) the benefit of which was obtained by reason of his employment, and that director's or higher-paid employment has terminated, whether on the employee ceasing to be employed or ceasing to be employed in director's or higher-paid employment, subsection (2) above applies as if it had not terminated.
- (4) Part I of Schedule 7 has effect as to what is meant by the benefit of a loan obtained by reason of a person's employment; the cash equivalent of the benefit is to be ascertained in accordance with Part II of that Schedule; and Part III of that Schedule has effect for excluding from the operation of subsection (1) above loans on which interest is eligible for relief under subsection (1) of section 353 or which would be so eligible apart from subsection (2) of that section.
- (5) In this section, sections 161 and 162 and Schedule 7—
- (a) "loan" includes any form of credit;
 - (b) references to a loan include references to any other loan applied directly or indirectly towards the replacement of the first-mentioned loan;
 - (c) references to making a loan include arranging, guaranteeing or in any way facilitating a loan (related expressions being construed accordingly); and
 - (d) references to the official rate of interest are to the rate prescribed from time to time by the Treasury by order.
- (6) For the purposes of this section and section 161, a person is a relative of another person if he or she is—
- (a) the spouse of that other; or
 - (b) a parent or remoter forebear, child or remoter issue, or brother or sister of that other or of the spouse of that other; or
 - (c) the spouse of a person falling within paragraph (b) above.
- (7) Subject to section 161, this section applies to loans whether made before or after this Act is passed.

161 Exceptions from section 160

- (1) There is no charge to tax under section 160(1) if the cash equivalent does not exceed £200 or (for a year in which there are two or more loans outstanding) the total of all the cash equivalents does not exceed that amount.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Where the amount of interest paid on a loan for the year in which it is made is not less than interest at the official rate applying for that year for the purposes of section 160 and the loan is made—
- (a) for a fixed and unvariable period; and
 - (b) at a fixed and unvariable rate of interest,
- subsection (1) of that section shall not apply to the loan in any subsequent year by reason only of an increase in the official rate since the year in which the loan was made.
- (3) Where a loan was made at any time before 6th April 1978—
- (a) for a fixed and unvariable period; and
 - (b) at a fixed and unvariable rate of interest,
- section 160(1) shall not apply to the loan if it is shown that the rate of interest is not less than such rate as could have been expected to apply to a loan on the same terms (other than as to the rate of interest) made at that time between persons not connected with each other (within the meaning of section 839) dealing at arm's length.
- (4) If the employee shows that he derived no benefit from a loan made to a relative of his, section 160(1) and (2) above shall not apply to that loan.
- (5) Section 160(2) does not apply where the amount released or written off is chargeable to income tax as income of the employee apart from that section, except—
- (a) where it is chargeable only by virtue of section 148; or
 - (b) to the extent that the amount exceeds the sums previously falling to be treated as the employee's income under section 677.
- (6) On the employee's death—
- (a) a loan within subsection (1) of section 160 ceases to be outstanding for the purposes of the operation of that subsection; and
 - (b) no charge arises under subsection (2) of that section by reference to any release or writing-off which takes effect on or after the death.
- (7) Section 160(2) does not apply to benefits received in pursuance of arrangements made at any time with a view to protecting the holder of shares acquired before 6th April 1976 from a fall in their market value.

162 Employee shareholdings

- (1) Where—
- (a) a person employed or about to be employed in director's or higher-paid employment ("the employee"), or a person connected with him, acquires shares in a company (whether the employing company or not); and
 - (b) the shares are acquired at an under-value in pursuance of a right or opportunity available by reason of his employment,
- section 160(1) and Schedule 7 apply as if the employee had the benefit of an interest-free loan obtained by reason of his employment ("the notional loan").
- (2) The provisions of this section have effect subject to sections 185 and 186; and in this section—
- (a) references to shares being acquired at an under-value are references to shares being acquired either without payment for them at the time or being acquired for an amount then paid which is less than the market value of fully paid up

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- shares of that class (in either case with or without obligation to make payment or further payment at some later time); and
- (b) any reference, in relation to any shares, to the under-value on acquisition is a reference to the market value of fully paid up shares of that class less any payment then made for the shares.
- (3) The amount initially outstanding of the notional loan is so much of the under-value on acquisition as is not chargeable to tax as an emolument of the employee; and—
- (a) the loan remains outstanding until terminated under subsection (4) below; and
- (b) payments or further payments made for the shares after the initial acquisition go to reduce the amount outstanding of the notional loan.
- (4) The notional loan terminates on the occurrence of any of the following events—
- (a) the whole amount of it outstanding is made good by means of payments or further payments made for the shares; or
- (b) the case being one in which the shares were not at the time of acquisition fully paid up, any outstanding or contingent obligation to pay for them is released, transferred or adjusted so as no longer to bind the employee or any person connected with him; or
- (c) the shares are so disposed of by surrender or otherwise that neither he nor any such person any longer has a beneficial interest in the shares; or
- (d) the employee dies.
- (5) If the notional loan terminates as mentioned in subsection (4)(b) or (c) above, there is then for the year in which the event in question occurs the same charge to income tax on the employee, under section 160(2), as if an amount equal to the then outstanding amount of the notional loan had been released or written off from a loan within that section.
- (6) Where after 6th April 1976 shares are acquired, whether or not at an under-value but otherwise as mentioned in subsection (1) above, and—
- (a) the shares are subsequently disposed of by surrender or otherwise so that neither the employee nor any person connected with him any longer has a beneficial interest in them; and
- (b) the disposal is for a consideration which exceeds the then market value of the shares,
- then for the year in which the disposal is effected the amount of the excess is treated as emoluments of the employee's employment and accordingly chargeable to income tax under Schedule E.
- (7) If at the time of the event giving rise to a charge in relation to any shares by virtue of subsection (5) or (6) above the employee has ceased to be in the director's or higher-paid employment by virtue of which he is the employee for the purposes of this section in relation to those shares, those subsections shall apply as if he had not so ceased.
- (8) No charge arises under subsection (6) above by reference to any disposal effected after the death of the employee, whether by his personal representatives or otherwise.
- (9) This section applies in relation to acquisition and disposal of an interest in shares less than full beneficial ownership (including an interest in the proceeds of sale of part of the shares but not including a share option) as it applies in relation to the acquisition and disposal of shares, subject to the following modifications—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) for references to the shares acquired there shall be substituted references to the interest in shares acquired;
 - (b) for the reference to the market value of the shares acquired there shall be substituted a reference to the proportion corresponding to the size of the interest of the market value of the shares in which the interest subsists;
 - (c) for the reference to shares of the same class as those acquired there shall be substituted a reference to shares of the same class as those in which the interest subsists; and
 - (d) for the reference to the market value of fully paid up shares of that class there shall be substituted a reference to the proportion of that value corresponding to the size of the interest.
- (10) In this section—
- (a) “shares” includes stock and also includes securities as defined in section 254(1);
 - (b) “acquisition” in relation to shares includes receipt by way of allotment or assignment or otherwise howsoever;
 - (c) any reference to payment for shares includes giving any consideration in money or money’s worth or making any subscription, whether in pursuance of a legal liability or not;
 - (d) “market value” has the same meaning as, for the purposes of the 1979 Act, it has by virtue of section 150 of that Act;
- and section 839 applies for the purposes of this section.
- (11) This section, in respect of any shares or any interest in shares, operates only to include an amount in emoluments so far as any amount corresponding to it, and representing the same benefit, does not otherwise fall to be so included under the Tax Acts.

163 Expenses connected with living accommodation

- (1) This section applies where, in the case of a person employed in director’s or higher-paid employment, living accommodation is provided by reason of the employment and, accordingly, a charge to tax would arise in his case under section 145 but for the case being one of those specified in subsection (4) of that section.
- (2) Where, by reason of expenditure incurred in one or more of the following, that is to say,—
- (a) heating, lighting or cleaning the premises concerned;
 - (b) repairs to the premises, their maintenance or decoration;
 - (c) the provision in the premises of furniture or other appurtenances or effects which are normal for domestic occupation;
- or by reason of such expenditure being reimbursed to the employee, an amount falls to be included in the emoluments of his employment, that amount shall not exceed the limit specified in subsection (3) below.
- (3) That limit is—
- (a) 10 per cent. of the net amount of the emoluments of the employment or, if the accommodation is provided for a period of less than a year, so much of that percentage of the net amount as is attributable to the period; less

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) where the expenditure is incurred by a person other than the employee, so much as is properly attributable to the expenditure of any sum made good by the employee to that other.
- (4) The net amount of the emoluments of a person's employment for the purposes of subsection (3) above is the amount of those emoluments (leaving out of account the expenditure in question) after—
- (a) any capital allowance; and
 - (b) any deductions allowable under section 198, 199, 201, 332(3), 592(7), 594 or 619(1)(a);
- and, for the purposes of this subsection, in the case of employment by a company there shall be taken into account, as emoluments of the employment, the emoluments of any employment by an associated company.
- (5) For the purposes of subsection (4) above, a company is an associated company of another if one of them has control of the other or both are under the control of the same person.

164 Director's tax paid by employer

- (1) Subject to the provisions of this Chapter, where in any year a person ("the recipient") is employed as a director of a company and—
- (a) a payment of, or on account of, income assessable to income tax under Schedule E as emoluments of that employment is made to him in circumstances in which the person making the payment is required, by regulations made under section 203, to deduct an amount of income tax on making the payment; and
 - (b) the whole of that amount is not so deducted but is, or any part of it is, accounted for to the Board by someone other than the recipient;
- the amount so accounted for to the Board, less so much (if any) as is made good by the recipient to that other person or so deducted, shall be treated as emoluments of the employment and accordingly chargeable to income tax under Schedule E.
- (2) A person shall not be treated, for the purposes of subsection (1) above, as employed as a director of a company if he has no material interest in the company and either paragraph (a) or paragraph (b) of section 167(5) is satisfied.
- (3) Where an amount treated as emoluments of a person's employment, by subsection (1) above, is accounted for to the Board at a time when the employment has come to an end, those emoluments shall be treated, for the purposes of the Income Tax Acts, as having arisen in the year in which the employment ended; but that subsection shall not apply in relation to any amount accounted for to the Board after the death of the director in question.

165 Scholarships

- (1) Nothing in section 331 shall be construed as conferring on any person other than the person holding the scholarship in question any exemption from the charge to tax under section 154.
- (2) For the purposes of this Chapter, any scholarship provided for a member of a person's family or household shall, without prejudice to any other provision of this Chapter, be taken to have been provided by reason of that person's employment if it is provided

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

under arrangements entered into by, or by any person connected with, his employer (whether or not those arrangements require the employer or connected person to contribute directly or indirectly to the cost of providing the scholarship).

(3) Section 154 does not apply to a benefit consisting in a payment in respect of a scholarship—

- (a) provided from a trust fund or under a scheme; and
- (b) held by a person receiving full-time instruction at a university, college, school or other educational establishment; and
- (c) which would not be regarded, for the purposes of this Chapter, as provided by reason of a person's employment were subsection (2) above and section 168(3) to be disregarded;

if, in the year in which the payment is made, not more than 25 per cent. of the total amount of the payments made from that fund, or under that scheme, in respect of scholarships held as mentioned in paragraph (b) above is attributable to relevant scholarships.

(4) This section does not have effect in relation to any payment if—

- (a) it is made in respect of a scholarship awarded before 15th March 1983, and
- (b) the first payment in respect of the scholarship was made before 6th April 1984; and
- (c) in relation to payments made after 5th April 1989, the person holding the scholarship is receiving full-time instruction at the university, college, school or other educational establishment at which he was receiving such instruction on—
 - (i) 15th March 1983, in a case where the first payment in respect of the scholarship was made before that date; or
 - (ii) the date on which the first such payment was made, in any other case.

(5) For the purposes of subsection (4)(c) above, a payment made before 6th April 1989 in respect of any period beginning on or after that date shall be treated as made at the beginning of that period.

(6) In this section—

- (a) “scholarship” includes an exhibition, bursary or other similar educational endowment;
- (b) “relevant scholarship” means a scholarship which is provided by reason of a person's employment (whether or not that employment is director's or higher-paid employment); and for the purposes of this definition
 “employment” includes an office or employment whose emoluments do not fall to be assessed under Schedule E but would fall to be so assessed if the employee were resident, and ordinarily resident, and all the duties of the employment were performed wholly, in the United Kingdom;

and section 839 applies for the purposes of this section.

General supplementary provisions

166 Notice of nil liability under this Chapter

(1) If a person furnishes to the inspector a statement of the cases and circumstances in which payments of a particular character are made, or benefits or facilities of a

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

particular kind are provided, for any employees (whether his own or those of anyone else), and the inspector is satisfied that no additional tax is payable under this Chapter by reference to the payments, benefits or facilities mentioned in the statement, the inspector shall notify the person accordingly; and then nothing in this Chapter applies to those payments, or to the provision of those benefits or facilities, or otherwise for imposing any additional charge to income tax.

- (2) The inspector may, if in his opinion there is reason to do so, by notice served on the person to whom notification under subsection (1) above was given, revoke the notification, either as from the date of its making or from such later date as may be specified in the notice under this subsection; and then all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question as would have been chargeable or would have had to be made in the first instance if the notification under subsection (1) had never been given or, as the case may be, it had ceased to have effect on the specified date.
- (3) In relation to a notification given before 6th April 1988, the reference in subsection (2) above to income tax includes a reference to income tax chargeable under the corresponding enactments in force before that date, and accordingly, where the notification is revoked for any period before that date, that subsection has effect in relation to years of assessment before the year 1988-89.
- (4) The validity of any notification given under section 199 of the 1970 Act which was continued in force by paragraph 14 of Schedule 9 to the Finance Act 1976 shall not be affected by the repeal of that paragraph by this Act but shall continue in force as if made under subsection (1) above in relation to tax liability under sections 153 to 156; and subsection (2) above shall apply accordingly.

167 Meaning of “director’s or higher-paid employment”

- (1) In this Chapter “director’s or higher-paid employment” means—
 - (a) subject to subsection (5) below, employment as a director of a company; or
 - (b) employment with emoluments at the rate of £8,500 a year or more.
- (2) For this purpose emoluments are to be calculated—
 - (a) on the basis that they include all such amounts as come or would but for section 157(3) come into charge under this Chapter or section 141, 142, 143 or, in the case of those in director’s or higher-paid employment, 145; and
 - (b) without any deduction under section 198, 201 or 332(3).
- (3) Where a person is employed in two or more employments by the same employer and either—
 - (a) the total of the emoluments of those employments (applying this section) is at the rate of £8,500 a year or more; or
 - (b) one or more of those employments is (apart from this subsection) director’s or higher-paid,
 all the employments are to be treated as director’s or higher-paid.
- (4) All employees of a partnership or body over which an individual or another partnership or body has control are to be treated for the purposes of this section (but not for any other purpose) as if the employment were an employment by the individual or by that other partnership or body as the case may be.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) A person's employment is not director's or higher-paid by reason only of its being employment as a director of a company (without prejudice to its being so under subsection (1)(b) or (3) above) if he has no material interest in the company and either
- (a) his employment is as a full-time working director; or
 - (b) the company is non-profit-making (meaning that neither does it carry on a trade nor do its functions consist wholly or mainly in the holding of investments or other property) or is established for charitable purposes only.

168 Other interpretative provisions

- (1) The following provisions of this section apply for the interpretation of expressions used in this Chapter.
- (2) Subject to section 165(6)(b), "employment" means an office or employment the emoluments of which fall to be assessed under Schedule E; and related expressions shall be construed accordingly.
- (3) For the purposes of this Chapter—
- (a) all sums paid to an employee by his employer in respect of expenses, and
 - (b) all such provision as is mentioned in this Chapter which is made for an employee, or for members of his family or household, by his employer,
- are deemed to be paid to or made for him or them by reason of his employment, except any such payment or provision made by the employer, being an individual, as can be shown to have been made in the normal course of his domestic, family or personal relationships.
- (4) References to members of a person's family or household are to his spouse, his sons and daughters and their spouses, his parents and his servants, dependants and guests.
- (5) As respects cars, the following definitions apply—
- (a) "car" means any mechanically propelled road vehicle except—
 - (i) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description,
 - (ii) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used,
 - (iii) a motor cycle as defined in section 190(4) of the Road Traffic Act 1972, and
 - (iv) an invalid carriage as defined in section 190(5) of that Act;
 - (b) the age of a car at any time is the interval between the date of its first registration and that time;
 - (c) "business travel" means travelling which a person is necessarily obliged to do in the performance of the duties of his employment;
 - (d) the date of a car's first registration is the date on which it was first registered—
 - (i) in Great Britain, under the Vehicles (Excise) Act 1971 or corresponding earlier legislation; or
 - (ii) elsewhere, under the corresponding legislation of any country or territory;
 - (e) the original market value of a car is the inclusive price which it might reasonably have been expected to fetch if sold in the United Kingdom singly in a retail sale in the open market immediately before the date of its first

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- registration (“inclusive price” meaning the price inclusive of customs or excise duty, of any tax chargeable as if it were a duty of customs, and of value added tax and car tax); and
- (f) “private use”, in relation to a car made available to any person, or to others being members of his family or household, means any use otherwise than for his business travel.
- (6) For the purposes of this Chapter—
- (a) a car made available in any year to an employee, or to others being members of his family or household, by reason of his employment is deemed to be available in that year for his or their private use unless the terms on which the car is made available prohibit such use and no such use is made of the car in that year;
- (b) a car made available to an employee, or to others being members of his family or household, by his employer is deemed to be made available to him or them by reason of his employment (unless the employer is an individual and it can be shown that the car was made so available in the normal course of his domestic, family or personal relationships).
- (7) For the purposes of section 156, the market value of an asset at any time is the price which it might reasonably have been expected to fetch on a sale in the open market at that time.
- (8) Subject to subsection (9) below, “director” means—
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and
- (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,
- and includes any person in accordance with whose directions or instructions the directors of the company (as defined above) are accustomed to act.
- (9) A person is not under subsection (8) above to be deemed to be a person in accordance with whose directions or instructions the directors of the company are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.
- (10) “Full-time working director” means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity.
- (11) A person shall be treated as having a material interest in a company—
- (a) if he, either on his own or with any one or more of his associates, or if any associate of his with or without such other associates, is the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control, more than 5 per cent. of the ordinary share capital of the company; or
- (b) if, in the case of a close company, on an amount equal to the whole distributable income of the company falling to be apportioned under Part XI for the purpose of computing total income, more than 5 per cent. of that amount could be apportioned to him together with his associates (if any), or to any associate of his, or any such associates taken together.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

In this subsection “associate” has the same meaning as in section 417(3), except that for this purpose “relative” in that subsection has the meaning given by section 160(6).

- (12) “Control”, in relation to a body corporate or partnership, has the meaning given to it by section 840; and the definition of “control” in that section applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.
- (13) “Year” means year of assessment (except where the expression is used with reference to the age of a car).

CHAPTER III

PROFIT-RELATED PAY

Preliminary

169 Interpretation

- (1) In this Chapter—

“employment” means an office or employment whose emoluments fall to be assessed under Schedule E, and related expressions have corresponding meanings;

“employment unit” means an undertaking, or that part of an undertaking, to which a profit-related pay scheme relates;

“pay” (except in the expression “profit-related pay”) means emoluments paid under deduction of tax pursuant to section 203, reduced by any amounts included in them by virtue of Chapter II of Part V;

“profit period” means an accounting period by reference to which any profit-related pay is calculated;

“profit-related pay” means emoluments from an employment which are paid in accordance with a profit-related pay scheme;

“profit-related pay scheme” means a scheme providing for the payment of emoluments calculated by reference to profits;

“profits”, or “losses”, in relation to a profit period, means the amount shown in the account prepared for that period in accordance with the relevant profit-related pay scheme as the profit, or as the case may be the loss, on ordinary activities after taxation;

“registered scheme” means a profit-related pay scheme registered under this Chapter;

“scheme employer” means the person on whose application a profit-related pay scheme is or may be registered under this Chapter.

- (2) References in this Chapter to the employees to whom a profit-related pay scheme relates are references to the employees who will receive any payments of profit-related pay under the scheme.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

170 Taxation of profit-related pay

Any charge to income tax on profit-related pay paid in accordance with a registered scheme shall be made for the year of assessment in which it is paid (rather than the period for which it is paid).

The relief

171 Relief from tax

- (1) One half of any profit-related pay to which this section applies shall be exempt from income tax.
- (2) This section applies to any profit-related pay paid to an employee by reference to a profit period and in accordance with a registered scheme, but only so far as it does not exceed the lower of the two limits specified in the following provisions of this section.
- (3) The first of the limits referred to in subsection (2) above is one fifth of the aggregate of—
 - (a) the pay (but not any profit-related pay) paid to the employee in the profit period in respect of his employment in the employment unit concerned (or, if the employee is eligible to receive profit-related pay by reference to part only of the period, so much of his pay, but not any profit-related pay, as is paid in that part); and
 - (b) the profit-related pay paid to him by reference to that period in respect of that employment.
- (4) The second of the limits referred to in subsection (2) above is £3000 (or, if the profit period is less than 12 months, or the employee is eligible to receive profit-related pay by reference to part only of the profit period, a proportionately reduced amount).

172 Exceptions from tax

- (1) Profit-related pay shall not be exempt from income tax by virtue of section 171 if—
 - (a) it is paid to an employee in respect of his employment in an employment unit during a time when he also has another employment; and
 - (b) he receives in respect of that other employment during that time profit-related pay which is exempt from income tax by virtue of that section.
- (2) Subject to subsection (3) below, profit-related pay in respect of which no secondary Class 1 contributions under Part I of the Social Security Act 1975 or Part I of the Social Security (Northern Ireland) Act 1975 are payable shall not be exempt from income tax by virtue of section 171.
- (3) Subsection (2) above shall not apply to profit-related pay in respect of which no Class 1 contributions are payable only because the employee's earnings are below the lower earnings limit for such contributions.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Registration

173 Persons who may apply for registration

- (1) Where the emoluments of all the employees to whom a profit-related pay scheme relates are paid by the same person, an application to register the scheme under this Chapter may be made to the Board by that person.
- (2) Where subsection (1) above does not apply to a profit-related pay scheme, no application to register it may be made unless all the persons who pay emoluments to employees to whom the scheme relates are bodies corporate which are members of the same group; and in that case an application may be made by the parent company of the group.
- (3) In subsection (2) above—
 - “group” means a body corporate and its 51 per cent. subsidiaries, and
 - “parent company” means that body corporate; and
 in applying for the purposes of this section the definition of “51 per cent. subsidiary” in section 838, any share capital of a registered industrial and provident society (within the meaning of section 486) shall be treated as ordinary share capital.

174 Excluded employments

- (1) No application may be made to register a scheme under this Chapter if any employment to which the scheme relates is—
 - (a) employment in an office under the Crown or otherwise in the service of the Crown; or
 - (b) employment by an excluded employer.
- (2) For the purposes of this section “excluded employer” means—
 - (a) a person in an employment within subsection (1) above;
 - (b) a body under the control of the Crown, or of one or more persons acting on behalf of the Crown;
 - (c) a local authority;
 - (d) a body under the control of one or more local authorities, or of the Crown (or one or more persons acting on behalf of the Crown) and one or more local authorities.
- (3) For the purposes of this section a person has control of a body only if one or more of the following conditions is satisfied—
 - (a) in the case of a body whose affairs are managed by its members, he has the power to appoint more than half of the members;
 - (b) in the case of a body having a share capital, he holds more than half of its issued share capital;
 - (c) in the case of a body whose members vote in general meeting, he has the power to exercise more than half of the votes exercisable in general meeting;
 - (d) the articles of association or other rules regulating the body give him the power to secure that the affairs of the body are conducted in accordance with his wishes.
- (4) For the purposes of this section a person shall be taken to possess rights and powers possessed by—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) a person appointed by him to an office by virtue of which the rights or powers are exercisable; or
 - (b) a body which he controls;
- including rights and powers which such an officer or body is taken to possess by virtue of this subsection.
- (5) Subsections (3) and (4) above apply with the necessary modifications for the purpose of determining whether persons together have control of a body.

175 Applications for registration

- (1) An application for the registration of a profit-related pay scheme under this Chapter—
- (a) shall be in such form as the Board may prescribe;
 - (b) shall contain a declaration by the applicant that the scheme complies with the requirements of Schedule 8;
 - (c) shall contain an undertaking by the applicant that the emoluments paid to any employee to whom the scheme relates and to whom minimum wage legislation applies will satisfy that legislation without taking account of profit-related pay;
 - (d) shall specify the profit period or periods to which the scheme relates;
 - (e) shall be supported by such information as the Board may require.
- (2) An application for the registration of a profit-related pay scheme under this Chapter shall be accompanied by a report by an independent accountant, in a form prescribed by the Board, to the effect that in his opinion—
- (a) the scheme complies with the requirements of Schedule 8;
 - (b) the books and records maintained and proposed to be maintained by the applicant are adequate for the purpose of enabling the documents required by section 180(1) to be produced.
- (3) An application for the registration of a profit-related pay scheme under this Chapter shall be made within the period of six months ending immediately before the beginning of the profit period, or the first of the profit periods, to which the scheme relates.
- (4) In subsection (1) above “minimum wage legislation” means the provisions relating to remuneration in Part II of the Wages Act 1986, the Wages Councils (Northern Ireland) Order 1982, the Agricultural Wages Act 1948, the Agricultural Wages (Scotland) Act 1949 and the Agricultural Wages (Regulation) (Northern Ireland) Order 1977.

176 Registration

- (1) If an application for registration of a profit-related pay scheme under this Chapter is made more than three months (but not more than six months) before the beginning of the profit period, or the first of the profit periods, to which the scheme relates, then subject to subsection (2) below, the Board shall register the scheme before the beginning of that period.
- (2) If the Board are not satisfied that an application made as mentioned in subsection (1) above complies with the requirements of this Chapter, they may within 30 days after the day on which they receive the application—
- (a) refuse the application; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) by notice to the applicant either require him to amend the application or require him to give them such further information as may be specified in the notice, and in either case to do so within such time, not exceeding 30 days after the day on which the notice is given, as may be so specified.
- (3) If a notice under subsection (2) above is complied with and the Board are satisfied that the application complies with the requirements of this Chapter, the Board shall register the scheme before the beginning of the profit period.
- (4) If a notice under subsection (2) above is complied with but the Board remain not satisfied that the application complies with the requirements of this Chapter, the Board shall refuse the application.
- (5) If a notice under subsection (2) above is not complied with but the Board are before the beginning of the profit period satisfied that the application complies with the requirements of this Chapter, the Board may register the scheme before the beginning of the period; but if they do not do so, the application shall be regarded as having been refused.
- (6) If an application for registration of a profit-related pay scheme under this Chapter is made within the period of three months before the beginning of the profit period, or the first of the profit periods, to which the scheme relates, then—
 - (a) if before the beginning of the profit period the Board are satisfied that the application complies with the requirements of this Chapter, they shall register the scheme before the beginning of the period; but
 - (b) in any other case, the application shall be regarded as having been refused.
- (7) After registering a scheme under this Chapter, the Board shall by notice inform the applicant that they have done so.
- (8) The Board shall give notice to the applicant if they refuse his application under subsection (2) or (4) above.
- (9) For the purposes of this section an application does not comply with the requirements of this Chapter if the scheme to which it relates does not comply with the requirements of Schedule 8.

177 Change of scheme employer

- (1) Where—
 - (a) a scheme employer ceases to fulfil the conditions which section 173 requires to be fulfilled by an applicant for registration of the scheme; and
 - (b) he is succeeded by a person who would be eligible to apply for registration to the scheme; and
 - (c) there is otherwise no other material change in the employment unit or in the circumstances relating to the scheme;

the scheme employer and his successor may make a joint written application to the Board under this section for the amendment of the registration of the scheme.
- (2) If on receiving an application under this section the Board are satisfied—
 - (a) that the conditions in subsection (1)(a), (b) and (c) above are fulfilled; and
 - (b) that, apart from the change of scheme employer, there would be no grounds for cancelling the registration of the scheme,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

the Board shall amend the registration of the scheme by substituting the successor for the previous scheme employer.

- (3) An application under this section shall be made before the end of the period of one month beginning with the date of the succession.
- (4) Where the Board amend the registration of a scheme under this section, this Chapter shall (subject to any necessary modifications) have effect as if the successor had been the scheme employer throughout.
- (5) The Board shall give notice to the applicants if they refuse an application under this section.

178 Cancellation of registration

- (1) If after a scheme has been registered under this Chapter it appears to the Board—
 - (a) that the scheme has not been or will not be administered in accordance with this Chapter in relation to a profit period; or
 - (b) that the circumstances relating to the scheme have during a profit period become such that (if it were not registered) an application to register it under this Chapter would be excluded by section 174; or
 - (c) in the case of a scheme which employs (as the method of determining the distributable pool for a profit period) the method described as method B in paragraph 14 of Schedule 8, that losses were incurred in a profit period or in the preceding period of 12 months; or
 - (d) that the undertaking given in compliance with section 175(1)(c) has not been complied with in relation to employment at any time during a profit period;the Board may cancel the registration and, subject to subsection (5) below, the cancellation shall have effect from the beginning of that profit period.
- (2) If after a scheme has been registered under this Chapter it appears to the Board—
 - (a) that at the time of registration the scheme did not comply with the requirements of Schedule 8 or that the application did not comply with the requirements of this Chapter; or
 - (b) in the case of a scheme which employs (as the method of determining the distributable pool for a profit period) the method described as method A in paragraph 13 of Schedule 8, that losses were incurred in the base year specified in the scheme;the Board may cancel the registration with effect from the beginning of the profit period (or first profit period) to which the scheme related.
- (3) If after a scheme has been registered under this Chapter the scheme employer fails to comply with the requirements of section 180 in relation to a profit period, the Board may cancel the registration with effect from the beginning of that profit period.
- (4) If the scheme employer by notice requests the Board to cancel the registration of the scheme with effect from the beginning of a profit period specified in the notice, the Board shall comply with the request.
- (5) Where—
 - (a) the scheme employer has given to the Board in accordance with section 181(3) notice of a change in the employment unit, or in the circumstances relating

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- to the scheme, which is a ground for cancellation of the registration of the scheme by virtue of subsection (1)(a) or (b) above, and
- (b) the Board are satisfied that the change is not brought about with a view to the registration of a new scheme, and
 - (c) in the notice the scheme employer requests the Board to cancel the registration of the scheme with effect from the date of the change,
- then, if the notice is given before the end of the period of one month beginning with that day, the Board shall comply with the request.
- (6) The Board shall give notice to the scheme employer of the cancellation of a scheme's registration.

Administration

179 Recovery of tax from scheme employer

- (1) This section applies where—
 - (a) payments of profit-related pay are made to an employee in accordance with a registered scheme; and
 - (b) in consequence of the relief given by this Chapter in respect of registered schemes, less income tax is deducted from the payments in accordance with section 203 than would have been deducted if the scheme had not been registered; and
 - (c) the registration of the scheme is subsequently cancelled with effect from a time before that relevant for the purposes of the relief.
- (2) Where this section applies, an amount equal to the shortfall in the deductions made in accordance with section 203 shall be payable by the scheme employer to the Board; and regulations under that section may include provision as to the collection and recovery of any such amount.

180 Annual returns etc

- (1) After every profit period of a registered scheme, the scheme employer shall, within the period allowed by subsection (2) below, send to the Board—
 - (a) a return in such form and containing such information as the Board may prescribe; and
 - (b) a report by an independent accountant in such form and containing such information as the Board may prescribe and stating that in his opinion the terms of the scheme have been complied with in respect of the profit period.
- (2) Subject to subsection (3) below, the period allowed for complying with subsection (1) above is—
 - (a) seven months from the end of the profit period if the employment unit to which the scheme relates is an undertaking or part of an undertaking of a public company; and
 - (b) ten months from the end of the profit period in any other case.
- (3) If before the end of the period allowed by subsection (2) above the scheme employer gives the Board notice that an extension of three months has been allowed under section 242(3) of the Companies Act 1985, or under Article 250(3) of the Companies (Northern Ireland) Order 1986, in relation to a financial year of the employer

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

which corresponds with the profit period in question, then the period allowed by subsection (2) above shall be correspondingly extended.

- (4) In subsection (2)(a) above, “public company” has the meaning given by section 1(3) of the Companies Act 1985 or Article 12(3) of the Companies (Northern Ireland) Order 1986.

181 Other information

- (1) The Board may by notice require any person to give them, within a period of 30 days or such longer period as may be specified in the notice, any information which is so specified and which—
- (a) that person has or can reasonably be required to obtain; and
 - (b) the Board consider they need to have in order to perform their functions under this Chapter.
- (2) Without prejudice to the generality of subsection (1)(b) above, the Board may in particular require a person under subsection (1) to give them—
- (a) information to enable them to determine whether the registration of a scheme should be cancelled;
 - (b) information to enable them to determine the liability to tax of any person who is or has been an employee to whom a registered scheme relates or who pays or has paid emoluments to such an employee;
 - (c) information about the administration of a profit-related pay scheme which is or has been a registered scheme;
 - (d) information about any change of person paying emoluments to employees to whom a registered scheme relates.
- (3) The scheme employer of a registered scheme shall by notice inform the Board without delay if he becomes aware of anything that is or may be a ground for cancellation of the registration of the scheme.

182 Appeals

- (1) An appeal to the Special Commissioners may be made by a scheme employer—
- (a) against a refusal by the Board under section 176(2) or (4) of an application for registration of the scheme;
 - (b) against a refusal by the Board of an application under section 177;
 - (c) against the cancellation by the Board of the registration of the scheme.
- (2) An appeal under this section shall be made by notice given to the Board within 30 days of the day on which the scheme employer was notified of the refusal or, as the case may be, the cancellation.

Supplementary

183 Partnerships

For the purposes of this Chapter the members of a partnership which is a scheme employer shall be treated as a single continuing body of persons notwithstanding any change in their identity.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

184 Independent accountants

- (1) For the purposes of this Chapter, “independent accountant”, in relation to a profit-related pay scheme, means a person who—
 - (a) is within section 389(1)(a) or (b) of the Companies Act 1985 or Article 397(1)(a) or (b) of the Companies (Northern Ireland) Order 1986 (qualification for appointment as auditor); and
 - (b) is not excluded by subsections (2) to (5) below.
- (2) A person is not an independent accountant in relation to a profit-related pay scheme if—
 - (a) he is the employer of employees to whom the scheme relates; or
 - (b) he is a partner or an employee of, or partner of an employee of, a person within subsection (3) below; or
 - (c) he is an employee of a person within paragraph (b) above.
- (3) The persons within this subsection are—
 - (a) any person having employees to whom the scheme relates;
 - (b) any body corporate which is the subsidiary or holding company of a body corporate within paragraph (a) above or a subsidiary of such a body’s holding company.
- (4) For the purposes of this section—
 - (a) an auditor of a company is not to be regarded as an employee of it; and
 - (b) “holding company” and “subsidiary” are to be construed in accordance with section 736 of the Companies Act 1985 or Article 4 of the Companies (Northern Ireland) Order 1986.
- (5) A body corporate cannot be an independent accountant in relation to a scheme.
- (6) For the purposes of this Chapter, “independent accountant”, in relation to a scheme, includes a Scottish firm all the partners of which are independent accountants in relation to the scheme.

CHAPTER IV

OTHER EXEMPTIONS AND RELIEFS

Share option and profit sharing schemes

185 Approved share option schemes

- (1) The provisions of this section shall apply where, in accordance with the provisions of an approved share option scheme, an individual obtains a right to acquire shares in a body corporate by reason of his office or employment as a director or employee of that or any other body corporate and he obtains that right—
 - (a) in the case of a savings-related share option scheme, on or after 15th November 1980; or
 - (b) in the case of any other share option scheme, on or after 6th April 1984.
- (2) Subject to subsections (4) and (6) below, tax shall not be chargeable under any provision of the Tax Acts in respect of the receipt of the right.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Subject to subsections (4) and, except where paragraph 27(3) of Schedule 9 applies, (5) below, if he exercises the right in accordance with the provisions of the scheme at a time when it is approved—
- (a) tax shall not be chargeable under any provision of the Tax Acts in respect of the exercise nor under section 138(1)(a) in respect of an increase in the market value of the shares;
 - (b) section 29A(1) of the 1979 Act (assets deemed to be acquired at market value) shall not apply in calculating the consideration for the acquisition of the shares by him or for any corresponding disposal of them to him.
- (4) Subsections (2) and (3) above shall not apply in respect of a right, obtained by a person under a scheme which is a savings-related share option scheme, which is exercised within three years of its being obtained by virtue of a provision included in a scheme pursuant to paragraph 21 of Schedule 9.
- (5) Subsection (3) above shall not apply in relation to the exercise by any person of a right in accordance with the provisions of a scheme which is not a savings-related share option scheme if—
- (a) the period beginning with his obtaining the right and ending with his exercising it is less than three, or greater than ten, years; or
 - (b) the right is exercised within three years of the date on which he last exercised (in circumstances in which subsection (3) above applied) any right obtained under the scheme or under any other approved share option scheme which is not a savings-related share option scheme (any such right exercised on the same day being disregarded).
- (6) Where, in the case of a right obtained by a person under a scheme which is not a savings-related share option scheme, the aggregate of—
- (a) the amount or value of any consideration given by him for obtaining the right, and
 - (b) the price at which he may acquire the shares by exercising the right,
- is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (7) For the purposes of section 32(1)(a) of the 1979 Act (computation of chargeable gains: allowable expenditure) the consideration given for shares acquired in the exercise of the right shall be taken to have included that part of any amount on which income tax is payable in accordance with subsection (6) above which is attributable to the shares disposed of.

This subsection applies whether or not the exercise is in accordance with the provisions of the scheme and whether or not the scheme is approved at the time of the exercise.

- (8) Where a person is chargeable to tax under subsection (6) above on any amount (the “amount of the discount”) and subsequently, in circumstances in which subsection (3) above does not apply—
- (a) he is chargeable to tax under section 135, the amount of the gain on which he is chargeable to tax under that section shall be reduced by that part of the amount of the discount which is attributable to the shares in question; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) he is treated by virtue of section 162 as having had the benefit of a notional interest-free loan, the amount of the notional loan initially outstanding shall be reduced by that part of the amount of the discount which is attributable to the shares in question.
- (9) Where the provisions of a scheme which is not a savings-related share option scheme are approved in pursuance of an application made under paragraph 1 of Schedule 10 to the Finance Act 1984 before 1st January 1985 (and the approval has not been withdrawn), this section shall apply in relation to any right obtained before 1st July 1985 as if the scheme containing those provisions had been approved under that Schedule during the period beginning with the date on which that right was obtained and ending with the date on which those provisions were actually so approved.
- (10) In this section “savings-related share option scheme” has the meaning given by Schedule 9.

186 Approved profit sharing schemes

- (1) The provisions of this section apply where, after 5th April 1979, the trustees of an approved profit sharing scheme appropriate shares—
 - (a) which have previously been acquired by the trustees, and
 - (b) as to which the conditions in Part II of Schedule 9 are fulfilled, to an individual who participates in the scheme (“the participant”).
- (2) Notwithstanding that, by virtue of such an appropriation of shares as is mentioned in subsection (1) above, the beneficial interest in the shares passes to the participant to whom they are appropriated—
 - (a) the value of the shares at the time of the appropriation shall be treated as not being income of his chargeable to tax under Schedule E; and
 - (b) he shall not be chargeable to income tax under that Schedule by virtue of section 138(1)(a) in respect of an increase in the market value of the shares or by virtue of section 162 in any case where the shares are appropriated to him at an under-value within the meaning of that section.
- (3) Subject to the provisions of this section and paragraph 4 of Schedule 10, if, in respect of or by reference to any of a participant’s shares, the trustees become or the participant becomes entitled, before the release date, to receive any money or money’s worth (“a capital receipt”), the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the entitlement arises on the appropriate percentage (determined as at the time the trustees become or the participant becomes so entitled) of so much of the amount or value of the receipt as exceeds the appropriate allowance for that year, as determined under subsection (12) below.
- (4) If the trustees dispose of any of a participant’s shares at any time before the release date or, if it is earlier, the date of the participant’s death, then, subject to subsections (6) and (7) below, the participant shall be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on the appropriate percentage of the locked-in value of the shares at the time of the disposal.
- (5) Subject to paragraphs 5 and 6(6) of Schedule 10, the locked-in value of a participant’s shares at any time is—
 - (a) if prior to that time he has become chargeable to income tax by virtue of subsection (3) above on a percentage of the amount or value of any capital

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- receipt which is referable to those shares, the amount by which their initial market value exceeds the amount or value of that capital receipt or, if there has been more than one such receipt, the aggregate of them; and
- (b) in any other case, their initial market value.
- (6) Subject to subsection (7) below, if, on a disposal of shares falling within subsection (4) above, the proceeds of the disposal are less than the locked-in value of the shares at the time of the disposal, subsection (4) above shall have effect as if that locked-in value were reduced to an amount equal to the proceeds of the disposal.
- (7) If, at any time prior to the disposal of any of a participant's shares, a payment was made to the trustees to enable them to exercise rights arising under a rights issue, then, subject to subsection (8) below, subsections (4) and (6) above shall have effect as if the proceeds of the disposal were reduced by an amount equal to that proportion of that payment or, if there was more than one, of the aggregate of those payments which, immediately before the disposal, the market value of the shares disposed of bore to the market value of all the participant's shares held by the trustees at that time.
- (8) For the purposes of subsection (7) above—
- (a) no account shall be taken of any payment to the trustees if or to the extent that it consists of the proceeds of a disposal of rights arising under a rights issue; and
- (b) in relation to a particular disposal the amount of the payment or, as the case may be, of the aggregate of the payments referred to in that subsection shall be taken to be reduced by an amount equal to the total of the reduction (if any) previously made under that subsection in relation to earlier disposals;
- and any reference in subsection (7) or paragraph (a) above to the rights arising under a rights issue is a reference to rights conferred in respect of a participant's shares, being rights to be allotted, on payment, other shares or securities or rights of any description in the same company.
- (9) If at any time the participant's beneficial interest in any of his shares is disposed of, the shares in question shall be treated for the purposes of the relevant provisions as having been disposed of at that time by the trustees for (subject to subsection (10) below) the like consideration as was obtained for the disposal of the beneficial interest; and for the purposes of this subsection there is no disposal of the participant's beneficial interest if and at the time when—
- (a) in England and Wales or Northern Ireland, that interest becomes vested in any person on the insolvency of the participant or otherwise by operation of law, or
- (b) in Scotland, that interest becomes vested in a judicial factor, in a trustee on the participant's sequestrated estate or in a trustee for the benefit of the participant's creditors.
- (10) If—
- (a) a disposal of shares falling within subsection (4) above is a transfer to which paragraph 2(2)(c) of Schedule 9 applies, or
- (b) the Board is of opinion that any other disposal falling within that sub-paragraph is not at arm's length and accordingly direct that this subsection shall apply, or
- (c) a disposal of shares falling within that sub-paragraph is one which is treated as taking place by virtue of subsection (9) above and takes place within the period of retention,

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

then for the purposes of the relevant provisions the proceeds of the disposal shall be taken to be equal to the market value of the shares at the time of the disposal.

- (11) Where the trustees of an approved scheme acquire any shares as to which the requirements of Part II of Schedule 9 are fulfilled and, within the period of 18 months beginning with the date of their acquisition, those shares are appropriated in accordance with the scheme, section 686 shall not apply to income consisting of dividends on those shares received by the trustees; and, for the purpose of determining whether any shares are appropriated within that period, shares which were acquired at an earlier time shall be taken to be appropriated before shares of the same class which were acquired at a later time.
- (12) For the purposes of subsection (3) above, “the appropriate allowance”, in relation to any year of assessment, means a sum which, subject to a maximum of £100, is the product of multiplying £20 by 1 plus the number of years which fall within the period of five years immediately preceding the year in question and in which shares were appropriated to the participant under the scheme; and if in any year (and before the release date) the trustees become or the participant becomes entitled, in respect of or by reference to any of his shares, to more than one capital receipt, the receipts shall be set against the appropriate allowance for that year in the order in which they are received.
- (13) Schedule 10 shall have effect with respect to profit sharing schemes.

187 Interpretation of sections 185 and 186 and Schedules 9 and 10

- (1) In sections 185 and 186, this section and Schedules 9 and 10 “the relevant provisions” means those sections (including this section) and Schedules.
- (2) For the purposes of the relevant provisions, except where the context otherwise requires—
- “appropriate percentage” shall be construed in accordance with paragraph 3 of Schedule 10;
 - “approved”, in relation to a scheme, means approved under Schedule 9;
 - “associated company” has the same meaning as in section 416, except that, for the purposes of paragraph 23 of Schedule 9, subsection (1) of that section shall have effect with the omission of the words “or at any time within one year previously”;
 - “bonus date” has the meaning given by paragraph 17 of Schedule 9;
 - “capital receipt” means money or money’s worth to which the trustees of or a participant in a profit sharing scheme become or becomes entitled as mentioned in section 186(3), but subject to paragraph 4 of Schedule 10;
 - “certified contractual savings scheme” has the meaning given by section 326;
 - “control” has the same meaning as in section 840;
 - “grantor”, in relation to any scheme, means the company which has established the scheme;
 - “group scheme” and, in relation to such a scheme, “participating company” have the meanings given by paragraph 1(3) and (4) of Schedule 9;
 - “initial market value”, in relation to shares in a profit sharing scheme, has the meaning given by paragraph 30(4) of Schedule 9;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

“locked-in value”, in relation to any shares, shall be construed in accordance with section 186(5);

“market value” has the same meaning as in Part VIII of the 1979 Act;

“new holding” has the meaning given by section 77(1)(b) of the 1979 Act;

“participant”, in relation to a profit sharing scheme, means an individual to whom the trustees of the scheme have appropriated shares;

“participant’s shares”, in relation to a participant in a profit sharing scheme, means, subject to paragraph 5(4) of Schedule 10, shares which have been appropriated to the participant by the trustees;

“pensionable age” has the meaning given by Schedule 20 to the Social Security Act 1975;

“period of retention” has the meaning given by paragraph 2 of Schedule 10;

“release date”, in relation to any of the shares of a participant in a profit sharing scheme, means the fifth anniversary of the date on which they were appropriated to him;

“relevant amount”, in relation to a participant in a profit sharing scheme, means an amount which is not less than £1,250 and not more than £5,000 but which, subject to that, is 10 per cent. of his salary (determined under subsection (5) below) for the year of assessment in question or the preceding year of assessment, whichever is the greater;

“relevant requirements” has the meaning given by paragraph 1 of Schedule 9;

“savings-related share option scheme” has the meaning given by paragraph 1 of Schedule 9;

“scheme” means a savings-related share option scheme, a share option scheme which is not a savings-related share option scheme or a profit sharing scheme, as the context may require;

“shares” includes stock;

“the trustees”, in relation to an approved profit sharing scheme or the shares of a participant in such a scheme, means the body of persons for the establishment of which the scheme must provide as mentioned in paragraph 30 of Schedule 9; and

“the trust instrument”, in relation to an approved profit sharing scheme, means the instrument referred to in paragraph 30(1)(c) of Schedule 9.

(3) For the purposes of the application of the relevant provisions in relation to any share option scheme or profit sharing scheme, a person has a material interest in a company

- (a) if he, either on his own or with any one or more of his associates, or if any associate of his with or without any such other associates, is 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 per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of the ordinary share capital of the company; or
- (b) if, on an amount equal to the whole distributable income of the company falling under Part XI to be apportioned for the purpose of computing total income, more than 25 per cent., or in the case of a share option scheme which is not a savings-related share option scheme more than 10 per cent., of that amount could be apportioned to him together with his associates (if any), or to any associate of his, or to any such associates taken together.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

In this subsection “associate” has the meaning given by section 417(3) and (4).

- (4) Subsection (3) above shall have effect subject to the provisions of Part VI of Schedule 9.
- (5) For the purposes of subsection (2) above, a participant’s salary for a year of assessment means such of the emoluments of the office or employment by virtue of which he is entitled to participate in a profit sharing scheme as are liable to be paid in that year under deduction of tax pursuant to section 203 after deducting therefrom amounts included by virtue of Chapter II of this Part.
- (6) Section 839 shall apply for the purposes of the relevant provisions.
- (7) For the purposes of the relevant provisions a company is a member of a consortium owning another company if it is one of a number of companies which between them beneficially own not less than three-quarters of the other company’s ordinary share capital and each of which beneficially owns not less than one-twentieth of that capital.
- (8) Where the disposal referred to in section 186(4) is made from a holding of shares which were appropriated to the participant at different times, then, in determining for the purposes of the relevant provisions—
- (a) the initial market value and the locked-in value of each of those shares, and
 - (b) the percentage which is the appropriate percentage in relation to each of those shares,
- the disposal shall be treated as being of shares which were appropriated earlier before those which were appropriated later.
- (9) Any of the relevant provisions with respect to—
- (a) the order in which any of a participant’s shares are to be treated as disposed of for the purposes of those provisions, or
 - (b) the shares in relation to which an event is to be treated as occurring for any such purpose,
- shall have effect in relation to a profit sharing scheme notwithstanding any direction given to the trustees with respect to shares of a particular description or to shares appropriated to the participant at a particular time.
- (10) In the relevant provisions “workers' cooperative” means a registered industrial and provident society, within the meaning of section 486, which is a cooperative society and the rules of which include provisions which secure—
- (a) that the only persons who may be members of it are those who are employed by, or by a subsidiary of, the society and those who are the trustees of its profit sharing scheme; and
 - (b) that, subject to any provision about qualifications for membership which is from time to time made by the members of the society by reference to age, length of service or other factors of any description, all such persons may be members of the society;
- and in this subsection “cooperative society” has the same meaning as in section 1 of the Industrial and Provident Societies Act 1965 or, as the case may be, the Industrial and Provident Societies Act (Northern Ireland) 1969.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Retirement benefits etc.

188 Exemptions from section 148

(1) Tax shall not be charged by virtue of section 148 in respect of the following payments, that is to say—

- (a) any payment made in connection with the termination of the holding of an office or employment by the death of the holder, or made on account of injury to or disability of the holder of an office or employment;
- (b) any sum chargeable to tax under section 313;
- (c) a benefit provided in pursuance of a retirement benefits scheme within the meaning of Chapter II of Part IX of the 1970 Act or Chapter I of Part XIV of this Act or of an agreement as described in section 220(2) of the 1970 Act, where under section 220 of that Act or section 595 of this Act the holder of the office or employment was chargeable to tax in respect of sums paid, or treated as paid, with a view to the provision of the benefit;
- (d) a benefit paid in pursuance of any such scheme or fund as was described in section 221(1) and (2) of the 1970 Act or as is described in section 596(1);
- (e) any terminal grant, gratuity or other lump sum paid under any Royal Warrant, Queen's Order, or Order in Council relating to members of Her Majesty's forces, and any payment made in commutation of annual or other periodical payments authorised by any such Warrant or Order;
- (f) a payment of benefit under any superannuation scheme administered by the government of an overseas territory within the Commonwealth, or of compensation for loss of career, interruption of service or disturbance made in connection with any change in the constitution of any such overseas territory to persons who, before the change, were employed in the public services of that territory;

and references in paragraph (f) above to an overseas territory, to the government of such a territory, and to employment in the public service of such a territory shall be construed as if they occurred in the Overseas Development and Cooperation Act 1980, and sections 10(2) and 13(1) and (2) of that Act (which relate to the construction of such references) shall apply accordingly.

(2) Subsection (1)(d) above shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the loss or diminution is due to ill-health; but this subsection shall not be taken to apply to any payment properly regarded as a benefit earned by past service.

(3) Tax shall not be charged by virtue of section 148 in respect of any payment in the case of which the following conditions are satisfied—

- (a) that the payment is in respect of an office or employment in which the holder's service included foreign service; and
- (b) that the foreign service comprised either—
 - (i) in any case, three-quarters of the whole period of service down to the relevant date, or
 - (ii) where the period of service down to the relevant date exceeded ten years, the whole of the last ten years, or
 - (iii) where the period of service down to the relevant date exceeded 20 years, one-half of that period, including any ten of the last 20 years.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Tax shall not be charged by virtue of section 148 in respect of a payment of an amount not exceeding £25,000 (“the exempt sum”) and, subject to subsection (5) below, in the case of a payment which exceeds that amount shall be charged only in respect of the excess.
- (5) Where two or more payments in respect of which tax is chargeable by virtue of section 148, or would be so chargeable apart from subsection (4) above, are made to or in respect of the same person in respect of the same office or employment, or in respect of different offices or employments held under the same employer or under associated employers, subsection (4) above shall apply as if those payments were a single payment of an amount equal to that aggregate amount; and the amount of any one payment chargeable to tax shall be ascertained as follows, that is to say—
- (a) where the payments are treated as income of different chargeable periods, the exempt sum shall be deducted from a payment treated as income of an earlier period before any payment treated as income of a later period; and
 - (b) subject to that, the exempt sum shall be deducted rateably from the payments according to their respective amounts.
- (6) The person chargeable to tax by virtue of section 148 in respect of any payment may make a claim for such relief in respect of the payment as is applicable thereto under Schedule 11.
- (7) For the purposes of this section and Schedule 11 offices or employments in respect of which payments to which section 148 applies are made shall be treated as held under associated employers if, on the date which is the relevant date in relation to any of those payments, one of those employers is under the control of the other or of a third person who controls or is under the control of the other on that or any other such date.
- In this subsection “control” has the meaning given by section 840.
- (8) In this section—
- (a) “the relevant date” and “foreign service” have the same meaning as in Schedule 11; and
 - (b) references to an employer or to a person controlling or controlled by an employer include references to his successors.

189 Lump sum benefits on retirement

A lump sum paid to a person on his retirement from an office or employment shall not be chargeable to income tax under Schedule E if—

- (a) it is paid in pursuance of any such scheme or fund as was described in section 221(1) and (2) of the 1970 Act or as is described in section 596(1) and is neither a payment of compensation to which section 188(2) applies nor a payment chargeable to tax under section 600; or
- (b) it is a benefit paid in pursuance of any such scheme or arrangement as was referred to in section 220 of the 1970 Act or a retirement benefits scheme within the meaning of section 611 of this Act and the person to whom it is paid was chargeable to tax under section 220 of the 1970 Act or section 595 of this Act in respect of sums paid, or treated as paid, with a view to the provision of the benefit; or
- (c) it is paid under approved personal pension arrangements (within the meaning of Chapter IV of Part XIV).

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

190 Payments to Members of Parliament, Representatives to the European Parliament and others

Grants and other payments made—

- (a) in pursuance of a resolution of the House of Commons to a person ceasing to be a Member of that House on a dissolution of Parliament, or
- (b) under section 13 of the Parliamentary Pensions etc. Act 1984 (grants to persons ceasing to hold certain Ministerial and other offices), or
- (c) under section 3 of the European Parliament (Pay and Pensions) Act 1979 (resettlement grants to persons ceasing to be Representatives),

shall be exempt from income tax under Schedule E as emoluments, but without prejudice to their being taken into account, to the extent permitted by section 188(4), under section 148.

191 Job release scheme allowances not to be treated as income

- (1) A payment on account of an allowance to which this section applies shall not be treated as income for any purposes of the Income Tax Acts.
- (2) This section applies to any allowance paid since the beginning of 1977 by the Secretary of State or the Department of Economic Development under any scheme of the kind described in the Job Release Act 1977, being a scheme which provides for the payment of allowances for periods beginning not earlier than one year before the date on which the recipient attains pensionable age as defined in that Act.

Foreign emoluments and earnings, pensions and certain travel facilities

192 Relief from tax for foreign emoluments

- (1) In this Part “foreign emoluments” means the emoluments of a person not domiciled in the United Kingdom from an office or employment under or with any person, body of persons or partnership resident outside, and not resident in, the United Kingdom, but shall be taken not to include the emoluments of a person resident in the United Kingdom from an office or employment under or with a person, body of persons or partnership resident in the Republic of Ireland.
- (2) Where the duties of an office or employment are performed wholly outside the United Kingdom and the emoluments from the office or employment are foreign emoluments, the emoluments shall be excepted from Case I of Schedule E.
- (3) If it appears to the Board on a claim made by the holder of an office or employment that out of any foreign emoluments from the office or employment he has made payments in circumstances corresponding to those in which the payments would have reduced his liability to income tax, the Board may allow those payments as a deduction in computing the amount of the emoluments.
- (4) Subject to subsection (2) above, there shall be allowed in charging tax on foreign emoluments from an office or employment under Case I or II of Schedule E for the year of assessment 1988-89 a deduction equal to one-quarter of the emoluments in any case where—
 - (a) the holder of the office or employment was in that year of assessment not resident in the United Kingdom or was not resident in the United Kingdom for at least two of the preceding ten years of assessment; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) he—
- (i) held an office or employment the emoluments of which were foreign emoluments chargeable under Case I or II of Schedule E at any time in the period beginning with 6th April 1983 and ending with 13th March 1984, or
 - (ii) in fulfilment of an obligation incurred before 14th March 1984, performed duties of such an office or employment in the United Kingdom before 1st August 1984,
- and he held such an office or employment in the year 1984-85 and in each subsequent year of assessment.
- (5) Paragraph 2(2) and (3) of Schedule 12 shall have effect with the necessary modifications in relation to the amount of emoluments to be excepted under subsection (2) above as they have effect in relation to the amount of emoluments in respect of which a deduction is allowed under section 193(1), and, subject to that, for the purposes of subsections (2) and (4) above the amount of any emoluments shall be taken to be the amount remaining after any capital allowance and after any deductions under subsection (3) above or section 193(4), 194(1), 195(7), 198, 199, 201, 332, 592 or 594.

193 Foreign earnings and travel expenses

- (1) Where in any year of assessment—
- (a) the duties of an office or employment are performed wholly or partly outside the United Kingdom; and
 - (b) any of those duties are performed in the course of a qualifying period (within the meaning of Schedule 12) which falls wholly or partly in that year and consists of at least 365 days;

then, in charging tax under Case I of Schedule E on the amount of the emoluments from that employment attributable to that period, or to so much of it as falls in that year of assessment, there shall be allowed a deduction equal to the whole of that amount.

Schedule 12 shall have effect for the purpose of supplementing this subsection.

- (2) Subsections (3) and (4) below apply where a person (“the employee”) who is resident and ordinarily resident in the United Kingdom holds an office or employment (“the overseas employment”) the duties of which are performed wholly outside the United Kingdom and the emoluments from which are not foreign emoluments.
- (3) For the purposes of section 198(1) there shall be treated as having been necessarily incurred in the performance of the duties of the overseas employment expenses of the employee in travelling from any place in the United Kingdom to take up the overseas employment and in travelling to any place in the United Kingdom on its termination; and if travel is partly for a purpose mentioned in this subsection and partly for another purpose this subsection applies only to such part of the expenses as is properly attributable to the former purpose.
- (4) Where, for the purpose of enabling the employee to perform the duties of the overseas employment—
- (a) board and lodging outside the United Kingdom is provided for him and the cost of it is borne by or on behalf of his employer; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) he incurs expenses out of the emoluments of the employment on such board and lodging for himself and those expenses are reimbursed by or on behalf of his employer,

there shall be allowed, in charging tax under Case I of Schedule E on the emoluments from that employment, a deduction of an amount equal to so much of that cost, or, as the case may be, those expenses as falls to be included in those emoluments.

Where board and lodging is partly for the purpose mentioned in this subsection and partly for another purpose, this subsection applies only to such part of the cost or expenses as is properly attributable to the former purpose.

- (5) Subsection (6) below applies where a person resident and ordinarily resident in the United Kingdom—

- (a) holds two or more offices or employments the duties of one or more of which are performed wholly or partly outside the United Kingdom; and
- (b) travels from one place having performed there duties of one office or employment to another place for the purpose of performing duties of another office or employment (the emoluments from which are not foreign emoluments);

and either or both of those places is outside the United Kingdom.

- (6) For the purposes of section 198(1) expenses incurred by such a person on such travel shall be treated as having been necessarily incurred in the performance of the duties which he is to perform at his destination; and if travel is partly for the purpose of performing those duties and partly for another purpose this subsection applies only to such part of the expenses as is properly attributable to the former purpose.

- (7) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (3) above) to section 198 and to deductions allowable under sections 198, 199, 201 or 332 shall be construed as including a reference to subsection (3) above and to deductions allowable under that subsection.

194 Other foreign travel expenses

- (1) Where—

- (a) travel facilities are provided for any journey to which this subsection applies and the cost of them is borne by or on behalf of the employer; or
- (b) expenses are incurred out of the emoluments of any office or employment mentioned in subsection (2), (3) or (5) below on any such journey and those expenses are reimbursed by or on behalf of the employer,

there shall be allowed, in charging tax under Case I of Schedule E on the emoluments from that office or employment, a deduction of an amount equal to so much of that cost or, as the case may be, those expenses as falls to be included in those emoluments.

- (2) Subsection (1) above applies where a person is absent from the United Kingdom for a continuous period of 60 days or more for the purpose of performing the duties of one or more offices or employments and applies to travel of the following descriptions between any place in the United Kingdom and the place of performance of any of those duties outside the United Kingdom, that is to say—

- (a) any journey by his spouse or any child of his—
 - (i) accompanying him at the beginning of the period of absence; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (ii) to visit him during that period;
 - (b) any return journey following a journey of a kind described in paragraph (a) above;
- but that subsection does not extend to more than two outward and two return journeys by the same person in any year of assessment.
- For the purposes of this subsection “child” includes a stepchild and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the outward journey.
- (3) Where a person holds an office or employment the duties of which are performed partly outside the United Kingdom, subsection (1) above applies, subject to subsection (4) below, to any journey by him—
 - (a) from any place in the United Kingdom to the place of performance of any of those duties outside the United Kingdom;
 - (b) from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom.
 - (4) Subsection (1) does not apply by virtue of subsection (3) unless the duties concerned can only be performed outside the United Kingdom and the journey is made wholly and exclusively for the purpose—
 - (a) where the journey falls within subsection (3)(a), of performing the duties concerned; or
 - (b) where the journey falls within subsection (3)(b), of returning after performing the duties concerned.
 - (5) Where a person is absent from the United Kingdom for the purposes of performing the duties of one or more offices or employments, subsection (1) above applies, subject to subsection (6) below, to—
 - (a) any journey by him from the place of performance of any of those duties outside the United Kingdom to any place in the United Kingdom;
 - (b) any return journey following a journey of a kind described in paragraph (a) above.
 - (6) Subsection (1) does not apply by virtue of subsection (5) unless the duties concerned can only be performed outside the United Kingdom and the absence mentioned in subsection (5) was occasioned wholly and exclusively for the purpose of performing the duties concerned.
 - (7) For the purpose of applying this section in a case where the duties of the office or employment or (as the case may be) any of the offices or employments are performed on a vessel, in section 132(4)(b) the words from “or which” to the end shall be ignored.
 - (8) In such a case as is mentioned in subsection (7) above, subsection (4) above shall have effect as if “the duties concerned” in paragraphs (a) and (b) read “the duties concerned, or those duties and other duties of the office or employment”.
 - (9) Where apart from this subsection a deduction in respect of any cost or expenses is allowable under a provision of this section or section 193 and a deduction in respect of the same cost or expenses is also allowable under another provision of this section or section 193 or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (10) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (1) above) to section 198 and to deductions allowable under sections 198, 199, 201 or 332 shall be construed as including a reference to subsection (1) above and to deductions allowable under that subsection.

195 Travel expenses of employees not domiciled in the United Kingdom

- (1) Subject to subsection (2) below, this section applies in the case of an office or employment in respect of which a person (“the employee”) who is not domiciled in the United Kingdom is in receipt of emoluments for duties performed in the United Kingdom.
- (2) This section does not apply unless subsection (3) below is satisfied in respect of a date on which the employee arrives in the United Kingdom to perform duties of the office or employment; and where subsection (3) is so satisfied, this section applies only for a period of five years beginning with that date.
- (3) This subsection is satisfied in respect of a date if the employee—
- (a) was not resident in the United Kingdom in either of the two years of assessment immediately preceding the year of assessment in which the date falls; or
 - (b) was not in the United Kingdom for any purpose at any time during the period of two years ending with the day immediately preceding the date.
- (4) Where subsection (3) above is satisfied (by virtue of paragraph (a) of that subsection) in respect of more than one date in any year of assessment, only the first of those dates is relevant for the purposes of this section.
- (5) Subsection (7) below applies to any journey by the employee—
- (a) from his usual place of abode to any place in the United Kingdom in order to perform any duties of the office or employment there; or
 - (b) to his usual place of abode from any place in the United Kingdom after performing such duties there.
- (6) Where the employee is in the United Kingdom for a continuous period of 60 days or more for the purpose of performing the duties of one or more offices or employments in the case of which this section applies, subsection (7) below applies to any journey by his spouse, or any child of his, between his usual place of abode and the place of performance of any of those duties in the United Kingdom, if the journey—
- (a) is made to accompany him at the beginning of that period or to visit him during it; or
 - (b) is a return journey following a journey falling within paragraph (a) above;
- but subsection (7) as it applies by virtue of this subsection does not extend to more than two journeys to the United Kingdom and two return journeys by the same person in any year of assessment.
- (7) Subject to subsection (8) below, where—
- (a) travel facilities are provided for any journey to which this subsection applies and the cost of them is borne by or on behalf of a person who is an employer in respect of any office or employment in the case of which this section applies; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) expenses are incurred out of the emoluments of any office or employment in the case of which this section applies on such a journey and those expenses are reimbursed by or on behalf of the employer;
- there shall be allowed, in charging tax under Case I or II of Schedule E on the emoluments from the office or employment concerned, a deduction of an amount equal to so much of that cost or, as the case may be, those expenses as falls to be included in those emoluments.
- (8) If a journey is partly for a purpose mentioned in subsection (5) or (6) above and partly for another purpose, only so much of the cost or expenses referred to in subsection (7) as is properly attributable to the former purpose shall be taken into account in calculating any deduction made under subsection (7) as it applies by virtue of subsection (5) or, as the case may be, (6).
- (9) For the purposes of this section a person's usual place of abode is the country (outside the United Kingdom) in which he normally lives.
- (10) In subsection (6) above "child" includes a step-child and an illegitimate child but does not include a person who is aged 18 or over at the beginning of the journey to the United Kingdom.
- (11) References in the Income Tax Acts (including any provision of this Act, but without prejudice to any express reference to subsection (7) above) to section 198 and to deductions allowable under section 198, 199, 201 or 332 shall be construed as including a reference to subsection (7) above and to deductions allowable under it.
- (12) Where apart from this subsection a deduction in respect of any cost or expenses is allowable under a provision of this section and a deduction in respect of the same cost or expenses is also allowable under another provision of this section or of any other enactment, a deduction in respect of the cost or expenses may be made under either, but not both, of those provisions.
- (13) Where by virtue of subsection (3) of section 38 of the Finance Act 1986 any provision of section 37 of that Act applied in the case of any employee at any time during the year 1984-85 or 1985-86 (and that section applied to him immediately before 6th April 1988), this section shall apply in his case for the years 1988-89 to 1990-91 as if the following were substituted for subsections (2) to (4)—

“(2) This section does not apply after 5th April 1991.”.

196 Foreign pensions

A deduction of one-tenth of its amount shall be allowed in charging any pension or annuity to tax under paragraph 4 of Schedule E.

197 Leave travel facilities for the armed forces

- (1) No charge to tax under Schedule E shall arise in respect of travel facilities provided for members of the naval, military or air forces of the Crown going on, or returning from, leave.
- (2) Subsection (1) above applies whether the charge would otherwise have arisen under section 131, 141 or 154 and applies not only to travel vouchers and warrants for particular journeys but also to allowances and other payments for and in respect of leave travel, whether or not a warrant was available.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Other expenses, subscriptions etc.

198 Relief for necessary expenses

- (1) If the holder of an office or employment is necessarily obliged to incur and defray out of the emoluments of that office or employment the expenses of travelling in the performance of the duties of the office or employment, or of keeping and maintaining a horse to enable him to perform those duties, or otherwise to expend money wholly, exclusively and necessarily in the performance of those duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed.
- (2) Subject to subsection (3) below, where the emoluments for any duties do not fall within Case I or II of Schedule E, then in relation to those or any other emoluments of the office or employment, subsection (1) above and Chapter II of Part I of the 1968 Act and Chapter I of Part III of the Finance Act 1971 (capital allowances in respect of machinery and plant) shall apply as if the performance of those duties did not belong to that office or employment.
- (3) There may be deducted from any emoluments chargeable under Case III of Schedule E the amount of—
 - (a) any expenses defrayed out of those emoluments, and
 - (b) any other expenses defrayed in the United Kingdom in the chargeable period or in an earlier chargeable period in which the holder of the office or employment has been resident in the United Kingdom,being in either case expenses for which a deduction might have been made under subsection (1) above from emoluments of the office or employment if they had been chargeable under Case I of Schedule E for the chargeable period in which the expenses were incurred; but a deduction shall not be made twice, whether under this subsection or otherwise, in respect of the same expenses from emoluments of the office or employment.
- (4) No deduction shall be made under this section in respect of expenditure incurred by a Member of the House of Commons in, or in connection with, the provision or use of residential or overnight accommodation to enable him to perform his duties as such a Member in or about the Palace of Westminster or his constituency.

199 Expenses necessarily incurred and defrayed from official emoluments

- (1) Subject to the provisions of subsection (2) below, where the Treasury are satisfied with respect to any class of persons in receipt of any salary, fees or emoluments payable out of the public revenue that such persons are obliged to lay out and expend money wholly, exclusively and necessarily in the performance of the duties in respect of which such salary, fees or emoluments are payable, the Treasury may fix such sum as in the opinion of the Treasury represents a fair equivalent of the average annual amount laid out and so expended by persons of that class, and in charging income tax on that salary or those fees or emoluments there shall be deducted from the amount thereof the sums so fixed by the Treasury.
- (2) If any such person would, but for the provisions of subsection (1) above, be entitled to deduct a larger amount than the sum so fixed, that amount may be deducted instead of the sum so fixed.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

200 Expenses of Members of Parliament

An allowance—

- (a) which is paid to a Member of the House of Commons; and
- (b) for which provision is made by resolution of that House, and
- (c) which is expressed to be in respect of additional expenses necessarily incurred by the Member in staying overnight away from his only or main residence for the purpose of performing his parliamentary duties, either in the London area, as defined in such a resolution, or in his constituency,

shall not be regarded as income for any purpose of the Income Tax Acts.

201 Fees and subscriptions to professional bodies, learned societies etc

- (1) Subject to the provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say—
 - (a) any fee or contribution mentioned in subsection (2) below, and
 - (b) any annual subscription paid to a body of persons approved for the purposes of this section by the Board.
- (2) The fees and contributions referred to in subsection (1)(a) above are—
 - (a) the fee payable in respect of the retention of a name in the Register of Architects;
 - (b) the fee payable in respect of the retention of a name in the dentists register or in a roll or record kept for a class of ancillary dental workers;
 - (c) the fee payable in respect of the retention of a name in either of the registers of ophthalmic opticians or in the register of dispensing opticians;
 - (d) the annual fee payable by a registered patent agent;
 - (e) the fee payable in respect of the retention of a name in the register of pharmaceutical chemists;
 - (f) the fee and contribution to the Compensation Fund or Guarantee Fund payable on the issue of a solicitor's practising certificate; and
 - (g) the annual fee payable by a registered veterinary surgeon or by a person registered in the Supplementary Veterinary Register.
- (3) The Board may, on the application of the body, approve for the purposes of this section any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects—
 - (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions);
 - (b) the maintenance or improvement of standards of conduct and competence among the members of any profession;
 - (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.
- (4) If the activities of a body approved for the purposes of this section are to a significant extent directed to objects other than those mentioned in subsection (3) above, the Board may determine that such specified part only of any annual subscription paid to the body may be deducted under this section as corresponds to the extent to which

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

its activities are directed to objects mentioned in that subsection; and in doing so the Board shall have regard to all relevant circumstances and, in particular, to the proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.

- (5) A fee, contribution or subscription shall not be deducted under this section from the emoluments of any office or employment unless—
- (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) or certificate which is a condition, or one of alternative conditions, of the performance of the duties of the office or employment or, as the case may be, the contribution is payable on the issue of such a certificate; or
 - (b) the subscription is paid to a body the activities of which, so far as they are directed to the objects mentioned in subsection (3) above, are relevant to the office or employment, that is to say, the performance of the duties of the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.
- (6) Any approval given and any determination made under this section may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this section in pursuance of an application made before the end of any year of assessment, a deduction may be made under this section in respect of a subscription paid to the body in that year, whether the approval is given before or after the end of the year.
- (7) Any body aggrieved by the failure of the Board to approve the body for the purposes of this section, or by their withdrawal of the approval, or by any determination made by them under this section or the variation of or refusal to withdraw or vary such a determination may, by notice given to the Board within 30 days from the date on which the body is notified of their decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal.

202 Donations to charity: payroll deduction scheme

- (1) This section applies where an individual (“the employee”) is entitled to receive payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and the person liable to make the payments (“the employer”) withholds sums from them.
- (2) If the conditions mentioned in subsections (3) to (7) below are fulfilled the sums shall, in assessing tax under Schedule E, be allowed to be deducted as expenses incurred in the year of assessment in which they are withheld.
- (3) The sums must be withheld in accordance with a scheme which is (or is of a kind) approved by the Board at the time they are withheld and which either contains provisions falling within subsection (4)(a) below, or contains provisions falling within subsection (4)(a) below and provisions falling within subsection (4)(b) below.
- (4) The provisions are that—
- (a) the employer is to pay sums withheld to a person (“the agent”) who is approved by the Board at the time they are withheld, and the agent is to pay them to a charity or charities;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) the employer is to pay sums withheld directly to a charity which (or charities each of which) is at the time the sums are withheld approved by the Board as an agent for the purpose of paying sums to other charities.
- (5) The sums must be withheld in accordance with a request by the employee that they be paid to a charity or charities in accordance with a scheme approved (or of a kind approved) by the Board.
- (6) The sums must constitute gifts by the employee to the charity or charities concerned, must not be paid by the employee under a covenant, and must fulfil any conditions set out in the terms of the scheme concerned.
- (7) The sums must not in any year of assessment exceed £120 in the case of any employee (however many offices or employments he holds or has held).
- (8) The circumstances in which the Board may grant or withdraw approval of schemes (or kinds of schemes) or of agents shall be such as are prescribed by the Treasury by regulations; and the circumstances so prescribed (whether relating to the terms of schemes or the qualifications of agents or otherwise) shall be such as the Treasury think fit.
- (9) The Treasury may by regulations make provision—
- (a) that a participating employer or agent shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board's inspection documents of a prescribed kind or records of a prescribed kind;
 - (b) that a participating employer or agent shall in prescribed circumstances furnish to the Board information of a prescribed kind;
 - (c) for, and with respect to, appeals to the Special Commissioners against the Board's refusal to grant, or their withdrawal of, approval of any scheme (or any kind of scheme) or agent;
 - (d) generally for giving effect to subsections (1) to (7) above.
- In this subsection "prescribed" means prescribed by the regulations.
- (10) For the purposes of subsection (9) above a person is a participating employer or agent if he is an employer or agent who participates, or has at any time participated, in a scheme under this section.
- (11) In this section "charity" has the same meaning as in section 506.

CHAPTER V

ASSESSMENT, COLLECTION, RECOVERY AND APPEALS

203 Pay as you earn

- (1) On the making of any payment of, or on account of, any income assessable to income tax under Schedule E, income tax shall, subject to and in accordance with regulations made by the Board under this section, be deducted or repaid by the person making the payment, notwithstanding that when the payment is made no assessment has been made in respect of the income and notwithstanding that the income is in whole or in

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

part income for some year of assessment other than the year during which the payment is made.

- (2) The Board shall make regulations with respect to the assessment, charge, collection and recovery of income tax in respect of all income assessable thereto under Schedule E, and those regulations may, in particular, include provision—
- (a) for requiring any person making any payment of, or on account of, any such income, when he makes the payment, to make a deduction or repayment of income tax calculated by reference to tax tables prepared by the Board, and for rendering persons who are required to make any such deduction or repayment accountable to, or, as the case may be, entitled to repayment from, the Board;
 - (b) for the production to and inspection by persons authorised by the Board of wages sheets and other documents and records for the purpose of satisfying themselves that income tax has been and is being deducted, repaid and accounted for in accordance with the regulations;
 - (c) for the collection and recovery, whether by deduction from any such income paid in any later year or otherwise, of income tax in respect of any such income which has not been deducted or otherwise recovered during the year;
 - (d) for requiring the payment of interest on sums due to the Board—
 - (i) which are not paid by the due date; and
 - (ii) of which the amount is determined by the inspector (before or after the due date) in accordance with the regulations;and for determining the date (being not less than 14 days after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated;
 - (e) for the assessment and charge of income tax by the inspector in respect of income to which this section applies; and
 - (f) for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal;
- and any such regulations shall have effect notwithstanding anything in the Income Tax Acts.
- (3) The deductions of income tax required to be made by regulations under subsection (2) (a) above may be required to be made at the basic rate or other rates in such cases or classes of cases as may be provided for by the regulations.
- (4) Any reference in this section to a payment of, or on account of, any income assessable under Schedule E includes a reference to anything which, in accordance with regulations under subsection (2) above, is to be treated as a payment of, or on account of, any such income.
- (5) Regulations under this section shall not affect any right of appeal to the General or Special Commissioners which a person would have apart from the regulations.
- (6) The tax tables referred to in subsection (2)(a) above shall be constructed with a view to securing that so far as possible—
- (a) the total income tax payable in respect of any income assessable under Schedule E for any year of assessment is deducted from such income paid during that year; and
 - (b) the income tax deductible or repayable on the occasion of any payment of, or on account of, any such income is such that the total net income tax deducted since the beginning of the year of assessment bears to the total income tax

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

payable for the year the same proportion that the part of the year which ends with the date of the payment bears to the whole year.

- (7) In subsection (6) above references to the total income tax payable for the year shall be construed as references to the total income tax estimated to be payable for the year in respect of the income in question, subject to a provisional deduction for allowances and reliefs, and subject also, if necessary, to an adjustment for amounts overpaid or remaining unpaid on account of income tax in respect of income assessable under Schedule E for any previous year.
- (8) For the purpose of estimating the total income tax payable as mentioned in subsection (6)(a) above, it may be assumed in relation to any payment of, or on account of, income assessable under Schedule E that the income paid in the part of the year of assessment which ends with the making of the payment will bear to the income for the whole of that year the same proportion as that part of the year bears to the whole year.

204 P.A.Y.E repayments

Without prejudice to the generality of section 203, regulations under that section may provide that no repayment of income tax shall be made under that section to any person if at any time—

- (a) he has claimed unemployment benefit in respect of a period including that time; or
- (b) he has claimed a payment of income support under the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986 in respect of a period including that time and his right to that income support is subject to the condition specified in section 20(3)(d)(i) of that Act or, in Northern Ireland, Article 21(3)(d)(i) of that Order (availability for employment); or
- (c) he is disqualified at the time from receiving unemployment benefit by virtue of section 19 of the Social Security Act 1975 or of section 19 of the Social Security (Northern Ireland) Act 1975 (loss of employment due to stoppage of work) or would be so disqualified if he otherwise satisfied the conditions for entitlement;

and such regulations may make different provision with respect to persons falling within paragraph (c) above from that made with respect to other persons.

205 Assessments unnecessary in certain circumstances

- (1) Subject to the provisions of this section, no assessment under Schedule E need be made on a person in respect of income of his assessable to income tax under that Schedule for any year of assessment if the total net tax deducted in the year in question from that income is the same as it would have been if all the relevant circumstances had been known to all parties throughout the year, and deductions and repayments had throughout the year been made accordingly, and had been so made by reference to cumulative tax tables.
- (2) In subsection (1) above—
- (a) “cumulative tax tables” means tax tables prepared under section 203 which are so framed as to require the tax which is to be deducted or repaid on the occasion of each payment made in the year to be ascertained by reference to a total of emoluments paid in the year up to the time of making that payment; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (b) references to the total net tax deducted shall be construed as references to the total income tax deducted during the year by virtue of regulations made under section 203, less any income tax repaid by virtue of any such regulations.
- (3) Nothing in this section shall be construed as preventing an assessment being made on a person in respect of his income assessable under Schedule E, and, without prejudice to the generality of the preceding provisions of this subsection, an assessment shall be made in respect of the income of a person so assessable for any year of assessment if the person assessable requires an assessment to be made by notice given to the inspector within five years from the end of the year of assessment.

206 Additional provision for certain assessments

Where an assessment to income tax under Schedule E is made as respects income which—

- (a) has been taken into account in the making of deductions or repayments of tax under section 203, and
- (b) was received not less than 12 months before the beginning of the year of assessment in which the assessment is made,

then, if the assessment is made after the expiration of the period of 12 months immediately following the year of assessment for which it is made, it shall be made in accordance with the practice generally prevailing at the expiration of that period.

207 Disputes as to domicile or ordinary residence

Where a dispute arises under paragraph 1 of Schedule E or under section 192 whether a person is or has been ordinarily resident or domiciled in the United Kingdom, the question shall be referred to and determined by the Board; but any person who is aggrieved by their decision on the question may, by notice to that effect given to them within three months from the date on which notice is given to him, make an application to have the question heard and determined by the Special Commissioners, and where such an application is so made, the Special Commissioners shall hear and determine the question in like manner as an appeal.