

*These notes refer to the Income Tax (Earnings and Pensions)
Act 2003 (c.1) which received Royal Assent on 6th March 2003*

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Omitted material

Schedule 2: Approved Share Incentive Plans

Overview

Part 1: Introduction

2950. This Part, which consists of paragraphs 1 to 5, is introductory. It indicates the contents of this Schedule (in *paragraph 1*) and introduces various terms of general application (in *paragraphs 2 to 5*).

Paragraph 1: Approval of share incentive plans (SIPs)

2951. This paragraph indicates the contents of this Schedule (in *sub-paragraph (1)*), and the Parts into which it is divided (in *sub-paragraphs (2) to (4)*). The opening paragraphs of Schedules 3, 4 and 5 have been organised in the same manner.

2952. This paragraph is new. It aims to help users to understand the subject matter of the Schedule and to locate relevant material.

Paragraph 2: SIPs: free shares and partnership shares

2953. In this paragraph, *sub-paragraph (1)* sets out the central definition of “share incentive plan” (or “SIP” for short), a definition derived from that of “employee share ownership plan” in paragraph 1(1) of Schedule 8. In the source legislation, that sub-paragraph was followed by a provision relating to matching shares; but in this Act the proposition set out here appears on its own, and the provision relating to matching shares has been postponed until the following paragraph.

2954. *Sub-paragraph (2)* contains three definitions:

- the definition of “the company” derives from paragraph 1(4) of Schedule 8;
- the definition of “plan requirements” is new; and
- the definition of “the trustees” is a new feature of these introductory provisions, introducing a term that will be used before the requirements relating to the trustees are dealt with in Part 9 of this Schedule.

Paragraph 3: Matching shares

2955. This paragraph introduces the concept of “matching shares”. It derives from paragraph 1(2) and (3) of Schedule 8.

2956. *Sub-paragraph (2)* now refers to “free shares, partnership shares, and matching shares”, as opposed to “the kinds of shares mentioned in sub-paragraphs (1) and (2)”; and states that “the plan may provide for the company to decide” as opposed to “it may leave it for the company to decide”.

Paragraph 4: Group plans

2957. This paragraph is concerned with group plans. It derives from paragraph 2 of Schedule 8.
2958. In *sub-paragraph (3)* the term “constituent company” replaces the term “participating company”. This change, which is in alignment with corresponding changes made in Schedules 3, 4 and 5, has been made on the basis that these Schedules necessarily make numerous references to “participants” and to people who “participate” - so that the use of another term is advantageous.

Paragraph 5: Meaning of “award of shares”, “participant” etc.

2959. This paragraph defines various expressions to be found in the SIP code. It derives from paragraph 3 of Schedule 8.
2960. These definitions are set out in an order that differs somewhat from that found in the source legislation, because *sub-paragraph (2)* derives from the full-out words at the end of paragraph 3(2) of Schedule 8.
2961. In paragraph 3(2) of Schedule 8, the source legislation provides for the definition of “the individual award”. This term is not used in this Act, as it appears in one place only: in paragraph 53(5) of this Schedule (derived from paragraph 43(4) of Schedule 8). The wording of paragraph 53(5) has been amended accordingly.