

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Omitted material

Schedule 4: Approved Csop Schemes

Overview

Part 4: Shares to which schemes can apply

Paragraph 19: Only certain kinds of restriction allowed

3415. This paragraph takes the material from the rest of paragraph 12 of Schedule 9 to ICTA and covers the rules about the kind of restrictions permitted for eligible shares.
3416. Broadly restrictions are not allowed unless they apply to all shares in the same class. There is an exception. This is contained in *sub-paragraphs (2) and (3)* and derives from sub-paragraphs (2) and (3) of paragraph 12 of Schedule 9 to ICTA. This allows companies to require ex-employees to dispose of their shares; this will usually be to the existing shareholders.
3417. In *sub-paragraph (2)(a) and (b)* “or offered for sale” covers the situation in which employees cannot actually secure the sale of their shares. See *Change 168* in Annex 1.
3418. In *sub-paragraph (5)* a reference to section 74(4) of the Financial Services and Markets Act 2000 has been inserted to update the reference to the Model Code issued by the Stock Exchange, in paragraph 13(2) of Schedule 9 to ICTA. See also *Change 168* in Annex 1.
3419. In CSOP there is a provision in *sub-paragraph (6)* dating from FA 1988 ensuring that certain terms of loans are not regarded as a restriction on shares. This provision was not applied to SAYE.
3420. *Sub-paragraph (7)* enacts the contents of a Revenue Press Release, concerning the “directors veto”, issued on 11 June 1985. See also *Change 168* in Annex 1.
3421. There is a new *sub-paragraph (8)*, which puts into the legislation the Inland Revenue’s interpretation of the reference in paragraph 12 of Schedule 9 to ICTA to “articles of association”. See also *Change 168* in Annex 1, which refers to *Note 44* in Annex 2.