

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Omitted material

Schedule 5: Enterprise Management Incentives

Overview

Part 4: Eligible employees

Paragraph 26: The requirement as to commitment of working time

3509. This paragraph sets out that eligible employees must spend at least 25 hours a week (or at least 75% of their working time, if less) on the business of the relevant company (or of the group if the relevant company is a parent company). Time off for illness and other types of leave are disregarded for the purposes of this test. This paragraph derives from paragraph 29(1) to (4) of Schedule 14 to FA 2000.
3510. One change from the material in paragraph 29 of Schedule 14 to FA 2000 is the reference to the employee as an “individual”, in both this and paragraph 27 of this Schedule. It is not possible for anyone other than an individual to be a qualifying employee.
3511. There is also no mention in this paragraph of the closing words of paragraph 29(4) of Schedule 14 to FA 2000, about an employee ceasing to be in relevant employment. These words have been rewritten in section 535(1)(a), with a cross-reference to paragraph 25 of this Schedule.
3512. There is a change to the wording of the “statutory threshold” in *sub-paragraph (1)*, in the reference to the *average* amount per week of the employee’s committed time. See *Change 176* in Annex 1 and the parallel change to section 535, *Change 130*.
3513. Another minor change to the law concerns the 75% element of the “statutory threshold”. The wording of paragraph 29(1) of Schedule 14 to FA 2000 did not make it clear that the reference to 75% is a minimum. See *Change 176* in Annex 1.