

*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 5: Enterprise Management Incentives

Overview

Part 6: Company reorganisations

Paragraph 43: Further requirements to be met as to replacement option

3540. This paragraph sets out various other conditions that must be met if the new option is to qualify as a replacement option for the purposes of EMI. This paragraph derives from paragraph 63 of Schedule 14 to FA 2000.
3541. As noted above, in relation to paragraphs 5 and 41 of this Schedule, the test in *sub-paragraph (3)(b)* (the maximum value of options under paragraph 7) should be applied to the new option and the acquiring company but the shares to be valued are those in the acquired company at the date of the grant of the old option. This is made clear in *sub-paragraph (4)*. See *Change 177* in Annex 1.