



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

CHAPTER 2

TAXABLE BENEFITS: THE BENEFITS CODE

General definitions for benefits code

66 Meaning of “employment” and related expressions

- (1) In the benefits code—
 - (a) “employment” means a taxable employment under Part 2, and
 - (b) “employed”, “employee” and “employer” have corresponding meanings.
- (2) Where a Chapter of the benefits code applies in relation to an employee—
 - (a) references in that Chapter to “the employment” are to the employment of that employee, and
 - (b) references in that Chapter to “the employer” are to the employer in respect of that employment.
- (3) For the purposes of the benefits code an employment is a “taxable employment under Part 2” in a tax year if the earnings from the employment for that year are (or would be if there were any) general earnings to which the charging provisions of Chapter 4 or 5 of Part 2 apply.
- (4) In subsection (3)—

Status: This is the original version (as it was originally enacted).

- (a) the reference to an employment includes employment as a director of a company, and
- (b) “earnings” means earnings as defined in Chapter 1 of this Part.

67 Meaning of “director” and “full-time working director”

- (1) In the benefits code “director” means—
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that 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.
- (2) For the purposes of subsection (1) a person is not to be regarded as a person in accordance with whose directions or instructions the directors of the company are accustomed to act merely because the directors act on advice given by that person in a professional capacity.
- (3) In the benefits code “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.

68 Meaning of “material interest” in a company

- (1) For the purposes of the benefits code a person has a material interest in a company if condition A or B is met.
- (2) Condition A is that the person (with or without one or more associates) or any associate of that person (with or without one or more such associates) is—
- (a) the beneficial owner of, or
 - (b) able to control, directly or through the medium of other companies or by any other indirect means,
- more than 5% of the ordinary share capital of the company.
- (3) Condition B is that, in the case of a close company, the person (with or without one or more associates) or any associate of that person (with or without one or more such associates), possesses or is entitled to acquire, such rights as would—
- (a) in the event of the winding-up of the company, or
 - (b) in any other circumstances,
- give an entitlement to receive more than 5% of the assets which would then be available for distribution among the participants.
- (4) In this section—
- “associate” has the meaning given by section 417(3) of ICTA except that, for this purpose, “relative” in section 417(3) has the meaning given by subsection (5) below, and
 - “participant” has the meaning given by section 417(1) of ICTA.
- (5) For the purposes of this section a person (“A”) is a relative of another (“B”) if A is—

Status: This is the original version (as it was originally enacted).

- (a) B's spouse,
- (b) a parent, child or remoter relation in the direct line either of B or of B's spouse,
- (c) a brother or sister of B or of B's spouse, or
- (d) the spouse of a person falling within paragraph (b) or (c).

69 Extended meaning of “control”

- (1) The definition of “control” in section 840 of ICTA (which is applied for the purposes of this Act by section 719) is extended as follows.
- (2) For the purposes of the benefits code that definition applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.