

SCHEDULES

SCHEDULE 3

APPROVED SAYE OPTION SCHEMES

PART 6

REQUIREMENTS ETC. RELATING TO SHARE OPTIONS

Requirements etc. relating to share options: introduction

- 27 (1) An SAYE option scheme must meet the requirements of—
paragraph 28 (requirements as to price for acquisition of shares),
paragraph 29 (share options must not be transferable),
paragraph 30 (time for exercising options: general),
paragraph 31 (requirement to have a “specified age”),
paragraph 32 (exercise of options: death),
paragraph 33 (exercise of options: reaching specified age without retiring), and
paragraph 34 (exercise of options: scheme-related employment ends).
- (2) An SAYE option scheme may make any provision authorised by—
paragraph 36 (exercise of options: employment in associated company at bonus date), and
paragraph 37 (exercise of options: company events).

Requirements as to price for acquisition of shares

- 28 (1) The price at which shares may be acquired by the exercise of a share option granted under the scheme—
(a) must be stated at the time when the option is granted, and
(b) must not be manifestly less than 80% of the market value of shares of the same class at that time.
- This is subject to sub-paragraphs (2) and (3).
- (2) The Inland Revenue and the scheme organiser may agree in writing that sub-paragraph (1)(b) is to apply as if the reference to the time when the option is granted were to an earlier time or times stated in the agreement.
- (3) The scheme may provide for one or more of the following—
(a) the price at which shares may be acquired by the exercise of a share option granted under the scheme,
(b) the number of shares which may be so acquired, or
(c) the description of shares which may be so acquired,

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to be varied so far as necessary to take account of a variation in the share capital of which the shares form part.

- (4) But the scheme must provide that no such variation is to be made without the prior approval of the Inland Revenue.

Share options must not be transferable

- 29 (1) The scheme must ensure that share options granted to a participant are not capable of being transferred by the participant.
- (2) Paragraph 32 provides for the exercise of the options where the participant has died.

Time for exercising options: general

- 30 (1) The scheme must ensure that share options granted under it must not be capable of being exercised—
- (a) before the bonus date, or
 - (b) later than 6 months after that date.
- (2) However, in sub-paragraph (1)—
- (a) paragraph (a) is subject to paragraphs 32 to 34 and 37 (exercise of options in the event of death, reaching the specified age without retiring, scheme-related employment ending or certain events occurring in relation to the company), and
 - (b) paragraph (b) is subject to paragraph 32.
- (3) In the SAYE code “the bonus date” means the date on which repayments under the CCS scheme are due.
- (4) For this purpose repayments are to be regarded as due as follows—
- (a) if the repayments are to be taken as including the maximum bonus (see paragraph 26(2)), on the earliest date on which that bonus is payable, and
 - (b) in any other case, on the earliest date on which a bonus is payable.

Requirement to have a “specified age”

- 31 (1) The scheme must specify the age that is to be the specified age for the purposes of the scheme (see paragraphs 33(1) and 34(2)).
- (2) The age specified must be—
- (a) the same for men and women,
 - (b) not less than 60, and
 - (c) not more than 75.

Exercise of options: death

- 32 The scheme must provide that, if a participant dies before exercising the options, they may be exercised on or after the date of death but not later than—
- (a) 12 months after the date of death, in a case where the participant dies before the bonus date, or
 - (b) 12 months after the bonus date, in a case where the participant dies on or within 6 months after that date.

Exercise of options: reaching specified age without retiring

- 33 (1) The scheme must provide that, if a participant (“P”) continues to hold the office or employment by reference to which P satisfies the condition in paragraph 10(1) (the employment requirement) after the date on which P reaches the specified age, P may exercise the options within 6 months of that date.
- (2) This paragraph has effect subject to paragraph 30(1)(b) (options must not be capable of being exercised later than 6 months after bonus date).

Exercise of options: scheme-related employment ends

- 34 (1) The scheme must provide that, if a participant (“P”) no longer holds scheme-related employment (see paragraph 35), the options are exercisable as set out in sub-paragraphs (2) to (4).
- (2) In a case where P ceases to hold the scheme-related employment because of—
- (a) injury or disability or redundancy within the meaning of ERA 1996, or
 - (b) retirement on reaching the specified age, or any other age at which P is bound to retire in accordance with the terms of P’s contract of employment,
- the options may only be exercised within 6 months after the termination date.
- (3) In a case where P ceases to hold the scheme-related employment for any other reason, share options granted more than 3 years before the termination date either—
- (a) may not be exercised, or
 - (b) may only be exercised within 6 months after the termination date,
- according to which of these alternatives is specified in the scheme.
- (4) Subject to any provision made under sub-paragraph (5), in a case where P ceases to hold the scheme-related employment for any reason other than one within sub-paragraph (2)(a) or (b), share options granted 3 years or less before the termination date may not be exercised at all.
- (5) The scheme may provide that, in a case where P ceases to hold the scheme-related employment only because—
- (a) it is in a company of which the scheme organiser ceases to have control, or
 - (b) it relates to a business or part of a business which is transferred to a person who is not an associated company of the scheme organiser,
- the options may be exercised within 6 months after the termination date.
- (6) This paragraph has effect subject to paragraph 30(1)(b) (options must not be capable of being exercised later than 6 months after bonus date).
- (7) In this paragraph—
- “scheme-related employment” means the office or employment by reference to which the person satisfies the condition in paragraph 10(1) (“the employment requirement”);
 - “the termination date” means the date when P ceases to hold the scheme-related employment (see paragraph 35).

Time when scheme-related employment ends

- 35 (1) This paragraph applies for the purposes of paragraph 34 (exercise of options: scheme-related employment ends).

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- (2) Unless sub-paragraph (3) applies, a participant (“P”) is to be regarded as ceasing to hold scheme-related employment on the date when the office or employment in question terminates.
- (3) If—
- (a) P’s scheme-related employment terminates, but
 - (b) P continues to hold an office or employment in the scheme organiser or any associated company,
- P is to be regarded as ceasing to hold the scheme-related employment on the date when P no longer holds any office or employment within paragraph (b), and not at any earlier time.
- (4) For the purposes of sub-paragraph (3) one company is an “associated company” of another company if—
- (a) one has control of the other, or
 - (b) both are under the control of the same person or persons;
- and for this purpose the question of whether a person controls a company is to be determined in accordance with section 416(2) to (6) of ICTA (“control” in the context of close companies).
- (5) Nothing in paragraph 34 or this paragraph applies where a person’s scheme-related employment terminates on that person’s death (see instead paragraph 32).
- (6) In this paragraph “scheme-related employment” has the same meaning as in paragraph 34.

Exercise of options: employment in associated company at bonus date

- 36 The scheme may provide that if at the bonus date a participant holds an office or employment in a company which is—
- (a) an associated company of the scheme organiser, but
 - (b) not a constituent company,
- the options may be exercised within 6 months after that date.

Exercise of options: company events

- 37 (1) The scheme may provide that share options relating to shares in a company may be exercised within 6 months after the relevant date for the purposes of sub-paragraph (2), (4) or (5).
- (2) The relevant date for the purposes of this sub-paragraph is the date when—
- (a) a person has obtained control of the company as a result of making an offer falling within sub-paragraph (3), and
 - (b) any condition subject to which the offer is made has been satisfied.
- (3) An offer falls within this sub-paragraph if it is—
- (a) a general offer to acquire the whole of the issued ordinary share capital of the company, which is made on a condition such that, if it is met, the person making the offer will have control of the company, or
 - (b) a general offer to acquire all the shares in the company which are of the same class as the shares in question obtained under the scheme.

- (4) The relevant date for the purposes of this sub-paragraph is the date when the court sanctions under—
- (a) section 425 of the Companies Act 1985 (c. 6) (power to compromise with creditors and members), or
 - (b) Article 418 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (corresponding provision for Northern Ireland),
- a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction or amalgamation of the company.
- (5) The relevant date for the purposes of this sub-paragraph is the date when the company passes a resolution for voluntary winding up.
- (6) The scheme may provide that share options relating to shares in a company may be exercised at any time when any person is bound or entitled to acquire shares in the company under—
- (a) sections 428 to 430 of the Companies Act 1985 (c. 6) (power to acquire shares of shareholders dissenting from schemes or contract approved by majority), or
 - (b) Articles 421 to 423 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (corresponding provision for Northern Ireland).
- (7) For the purposes of this paragraph—
- (a) “share options” means share options granted under the scheme; and
 - (b) a person is to be treated as obtaining control of a company if that person and others acting in concert together obtain control of it.
- (8) This paragraph has effect subject to paragraph 30(1)(b) (options must not be capable of being exercised later than 6 months after bonus date).