

SCHEDULES

SCHEDULE 7

TRANSITIONALS AND SAVINGS

PART 2

EMPLOYMENT INCOME: CHARGE TO TAX

Taxable earnings

- 8 (1) The charging provisions of Chapters 4 and 5 of Part 2—
- (a) apply for the purpose of determining taxable earnings from an employment in the tax year 2003-04 or any later tax year, and
 - (b) accordingly apply where (for the purposes of those Chapters) general earnings are received, or remitted to the United Kingdom, in that or any later tax year.
- (2) But they apply to general earnings for a tax year before the tax year 2003-04, as well as to those for that or any later year.
- This is subject to sub-paragraph (3).
- (3) If—
- (a) any general earnings within subsection (1) of section 22 (chargeable overseas earnings) or 26 (foreign earnings of resident employee) are for a tax year before 1989-90,
 - (b) the earnings are remitted to the United Kingdom in the tax year 2003-04 or any later tax year (“the remittance year”), and
 - (c) either—
 - (i) the employee is not resident in the United Kingdom in the remittance year, or
 - (ii) the employment is not held in the remittance year,
- subsection (2) of section 22 or 26 does not apply to the earnings.
- (4) Section 30 (treatment of earnings for year in which employment not held) does not apply where any of the tax years mentioned in subsection (2) or (3) of that section is a tax year before the tax year 1989-90.

Relief for delayed remittances

- 9 (1) This paragraph applies where one or more of the earlier tax years referred to in section 35(3)(b) (treatment of delayed remittances as taxable earnings in earlier tax years) is a tax year before the tax year 2003-04.

Status: This is the original version (as it was originally enacted).

- (2) References (whether express or implied) in sections 35 and 36 to earnings constituting or being treated as taxable earnings from the employment under section 22(2) or 26(2) in such an earlier tax year are to be construed for the purposes of the charging of income tax under Case III of Schedule E in that year as references to earnings constituting or being treated as emoluments of the employment falling within that Case and received in the United Kingdom in that year.
- (3) For the purposes of this paragraph the reference in sub-paragraph (2) to the receipt of income in the United Kingdom is to be construed in accordance with section 132(5) of ICTA (meaning of emoluments received in the United Kingdom).
- 10 Section 36(2) (the definition of “blocked earnings”) applies in relation to emoluments of the employment received in a country or territory outside the United Kingdom in a tax year before the tax year 2003-04 with the substitution of—
- (a) “Emoluments” for “General earnings”, and
 - (b) the following paragraph for paragraph (c)—
 - “(c) would have constituted emoluments of the employment on which income tax would have been charged under Case III of Schedule E in that year if they had been so transferred.”
- 11 (1) This paragraph applies where a claimant—
- (a) makes an election under section 36 for the purposes of a claim for relief under section 35, and
 - (b) has made a previous claim for relief under section 585 of ICTA (relief from tax on delayed remittances) in respect of delayed remittances from the same employment.
- (2) Section 36(6) (limit on amount of remittances allocated to a previous tax year) applies as if, in the definition of “PC”, the reference to the amount of remittances treated as taxable earnings from the employment in the tax year in question as a result of a previous claim by the claimant under section 35 includes a reference to the amount of remittances treated as income from the employment received in the United Kingdom in that year as a result of a previous claim by the claimant under section 585 of ICTA.
- (3) For the purposes of this paragraph the reference in sub-paragraph (2) to the receipt of income in the United Kingdom is to be construed in accordance with section 132(5) of ICTA (meaning of emoluments received in the United Kingdom).

Disputes as to domicile or ordinary residence

- 12 (1) Nothing in sections 42 and 43 (disputes as to domicile or ordinary residence) has effect where the dispute relates to the amount of income charged to tax for the tax year 2002-03 or any earlier tax year.
- (2) Nothing in those sections—
- (a) as applied by section 645(4C) of ICTA (earnings from pensionable employment) or section 76(6E) of FA 1989 (non-approved retirement benefits schemes) has effect where the dispute relates to the amount of income charged to tax for the tax year 2002-03 or any earlier tax year, or
 - (b) as applied by section 9(2) of TCGA 1992 (residence, including temporary residence) has effect where the dispute relates to the amount of capital gains tax charged for the tax year 2002-03 or any earlier tax year.

- (3) Accordingly, section 207 of ICTA (disputes as to domicile or ordinary residence) continues to apply to the disputes mentioned in sub-paragraphs (1) and (2) whether they arise before or after 6th April 2003.

Application of provisions to agency workers

- 13 In relation to times before 6th April 2003, Chapter 7 of Part 2 applies with the following modifications—
- (a) references to “employment income of the worker” are to be read as references to “income of the worker chargeable to tax under Schedule E”,
 - (b) references to “earnings” are to be read as references to “emoluments”, and
 - (c) references to “this Chapter” are to be read as references to “section 134 of ICTA”.
- 14 Section 44(2) does not apply in relation to—
- (a) payments made before 6th April 1998 other than payments made in respect of services provided on or after that date, or
 - (b) payments made on or after that date in respect of services provided before that date,
- if in providing the services the worker is or would be a sub-contractor within the meaning of section 560 of ICTA (sub-contractors in the construction industry).