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STATUTORY INSTRUMENTS

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**1989 No. 469**

**INCOME TAX**

**The Personal Equity Plan Regulations 1989**

<i>Made</i>	- - - -	<i>14th March 1989</i>
<i>Laid before the House of Commons</i>	- - - -	<i>14th March 1989</i>
<i>Coming into force</i>	- -	<i>6th April 1989</i>

The Treasury, in exercise of the powers conferred upon them by section 333 of the Income and Corporation Taxes Act 1988<sup>(1)</sup> and section 149D of the Capital Gains Tax Act 1979<sup>(2)</sup>, hereby make the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Personal Equity Plan Regulations 1989 and shall come into force on 6th April 1989.

**Interpretation**

2.—(1) In these Regulations unless the context otherwise requires:—

- (a) “the Board” means the Commissioners of Inland Revenue;
- “gains” means “chargeable gains” within the meaning of the Capital Gains Tax Act 1979;
- “investment trust” has the same meaning as in section 842 of the Taxes Act<sup>(3)</sup>;
- “the Management Act” means the Taxes Management Act 1970<sup>(4)</sup>;
- “market value” shall be construed in accordance with section 150 of the Capital Gains Tax Act 1979;
- “notice” means notice in writing and “notify” shall be construed accordingly;
- “ordinary share” means a share which forms part of a company’s ordinary share capital (within the meaning of section 832(1) of the Taxes Act);

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(1) 1988 c. 1.

(2) 1979 c. 14; section 149D was inserted by paragraph 26 of Schedule 29 to the Income and Corporation Taxes Act 1988 and amended by section 116 of the Finance Act 1988 (c. 39).

(3) Section 842 was amended by section 117(1) of the Finance Act 1988.

(4) 1970 c. 9.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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a“ plan investment” is an investment under a plan which is a qualifying investment within the meaning of regulation 6;

a“ plan investor” is an individual who subscribes to a plan and who is a qualifying individual within the meaning of regulation 7;

a“ plan manager” is a person who fulfils the conditions of these Regulations and is approved by the Board for the purposes of these Regulations as a plan manager;

a“ portfolio” is a portfolio of plan investments which are held under a plan;

“recognised stock exchange” has the same meaning as in section 841 of the Taxes Act;

“share” includes stock;

“tax” where neither income tax nor capital gains tax is specified means either of those taxes;

“tax credit” means a credit under section 231 of the Taxes Act;

“year” means a year beginning with 6th April in any year and ending with 5th April in the following year;

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“the 1986 Regulations” means the Personal Equity Plan Regulations 1986<sup>(5)</sup>.

(b) “authorised unit trust” means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986<sup>(6)</sup> is in force and which is an authorised securities scheme within the meaning of the Authorised Unit Trust Scheme (Investment and Borrowing Powers) Regulations 1988<sup>(7)</sup>;

“unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme;

“unit trust scheme” has the same meaning as in section 469 of the Taxes Act;

and references to a“ unit” include references to a fraction of a unit.

(2) The Table below indexes other definitions in these Regulations:

Term defined	Regulation
Annual claim	20
Interim claim	19
Plan	4(1)
Qualifying individual	7
Qualifying investments	6
Subscription limit	4(4)

## Introductory

3. These Regulations provide–

(a) for the setting up of plans by plan managers approved by the Board under which individuals may make certain investments, for the conditions under which they may

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<sup>(5)</sup> S.I. 1986/1948, amended by S.I. 1987/2128, 1988/657 and 1348.

<sup>(6)</sup> 1986 c. 60.

<sup>(7)</sup> S.I. 1988/284.

invest and under which those plans are to operate, for relief from tax in respect of plan investments and generally for the administration of tax in relation to plans, and

- (b) for transitional arrangements in respect of plans and plan investors under the 1986 Regulations.

#### **General conditions for plans and subscriptions to plans**

4.—(1) A plan is a scheme of investment to which an individual who is a qualifying individual may subscribe and in respect of which (subject to regulation 10) the following conditions must be fulfilled—

- (a) a qualifying individual may subscribe to only one plan in any year;
- (b) subject to paragraph (2)—
  - (i) the individual may not subscribe to a plan otherwise than by means of a sum or sums of his cash paid directly to the plan manager; and
  - (ii) the individual's cash subscription may not exceed the subscription limit in any year.

(2) Where, in pursuance of a public offer, an application is made by a qualifying individual for the allotment to him of shares of a company which are qualifying investments and such shares are allotted to that individual, he may, subject to the conditions prescribed by paragraph (3), subscribe to a plan by transferring or renouncing his rights to any shares so allotted to the plan manager or a nominee for the plan manager.

(3) The conditions prescribed by this paragraph are—

- (a) that the shares are transferred, or the rights to the shares are renounced, within 30 days of their allotment to the individual;
- (b) that any sum payable on such an application and the individual's cash subscription to the plan do not together exceed the subscription limit in any year.

(4) The subscription limit for the purposes of these Regulations is £4,800.

(5) A plan must be managed in accordance with these Regulations by a plan manager and under terms agreed in writing between the plan manager and the plan investor.

(6) Apart from other requirements of these Regulations the terms agreed to which paragraph (5) refers shall include the following conditions—

- (a) that the plan investments shall be in the beneficial ownership of the plan investor;
- (b) that the title to the plan investments shall be vested in the plan manager or his nominee or jointly in one of them and the plan investor;
- (c) that the share certificate or other document evidencing title to a plan investment shall be held by the plan manager or as he may direct;
- (d) that the plan manager shall, if the plan investor so elects, arrange for the plan investor to receive a copy of the annual report and accounts issued by every company or other concern in respect of shares or units (as the case may be) which are his plan investments;
- (e) that the plan manager shall be under an obligation (subject to any provisions made by or under any other enactment and if the plan investor so elects) to arrange for the plan investor to be able—
  - (i) to attend shareholders' or unit holders' meetings,
  - (ii) to vote, and
  - (iii) to receive, in addition to the documents referred to in paragraph (d) above, any other information issued to shareholders or unit holders;

- (f) that at the request of the plan investor and within such time as shall be agreed an entire plan with all rights and obligations of the parties to it may be transferred to another plan manager;
- (g) that the plan manager shall notify the plan investor if by reason of any failure to satisfy the provisions of these Regulations a plan has or will become void.

### **General investment rules**

5.—(1) All transactions whether by way of sale, purchase or otherwise by a plan manager in investments under a plan shall be made at the price which those investments might reasonably be expected to fetch in the open market.

(2) Investments, or rights in respect of investments, may not at any time—

- (a) be purchased or made otherwise than out of cash which a plan manager holds (and is entitled under the provisions of these Regulations to hold) under a plan at that time; or
- (b) be purchased from—
  - (i) a plan investor, or
  - (ii) the spouse of a plan investor,

so as to become plan investments under a plan to which the plan investor subscribes or has subscribed.

(3) A plan investor's cash subscription and any other cash held by a plan manager which he is entitled to hold under a plan shall be held only in sterling and be deposited with a deposit-taker or a building society in circumstances where—

- (a) the deposit-taker is liable to account for and pay an amount representing income tax on payments of interest in respect of the deposit calculated by applying the composite rate to the grossed-up amount of the payments in accordance with the provisions of section 479 of the Taxes Act, or
- (b) the reduced rate amount payable by the building society under Regulation 3 of the Income Tax (Building Societies) Regulations 1986<sup>(8)</sup> includes an amount calculated in accordance with those Regulations by applying the reduced rate there referred to to the grossed-up amount of interest paid or credited in respect of the deposit,

and in either case the deposit is designated for the purposes of these Regulations only.

(4) Subject to paragraph (5), cash by way of dividends, other rights or proceeds in respect of shares, not being shares in an investment trust, which are held as plan investments may be invested only by way of cash deposit or in other such shares.

(5) Cash referred to in paragraph (4) may be invested in an authorised unit trust or in an investment trust provided that immediately after such an investment is made the total market value of plan investments in authorised unit trusts and investment trusts does not exceed one half of the market value of the portfolio.

### **Qualifying investments**

6.—(1) This regulation specifies the kind of investments (“qualifying investments”) which may be purchased, made or held under a plan.

(2) Qualifying investments to which paragraph (1) refers are—

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<sup>(8)</sup> S.I. 1986/482, amended by S.I. 1987/844, 1988/1011 and 1989/36.

- (a) ordinary shares, not being shares in an investment trust, issued by a company which is incorporated in the United Kingdom and quoted in the official list of a recognised stock exchange in the United Kingdom or dealt in on the Unlisted Securities Market;
  - (b) subject to the conditions specified in paragraph (3), investments in—
    - (i) an authorised unit trust, or
    - (ii) an investment trust;
  - (c) cash which the plan manager is entitled to hold for investment under a plan.
- (3) The conditions specified in this paragraph are—
- (a) that the total amount of the cash subscription to the plan invested in authorised unit trusts and investment trusts in any year does not exceed one half of the subscription limit; and
  - (b) that on and after 6th April 1990 at least 75 per cent. in value of the investments subject to the trusts of a unit trust scheme which is an authorised unit trust or held by an investment trust are qualifying investments within paragraph (2)(a).

### **Qualifying individuals who may invest under a plan**

7.—(1) This regulation specifies the description of individual who may invest under a plan (“qualifying individual”).

- (2) A qualifying individual to whom paragraph (1) refers is an individual—
- (a) who is 18 years of age or over,
  - (b) who (subject to regulation 10) has not subscribed to any other plan during the year for which he makes an application under regulation 9, and
  - (c)
    - (i) who is resident and ordinarily resident in the United Kingdom, or
    - (ii) who, though non-resident, performs duties which by virtue of section 132(4)(a) of the Taxes Act (Crown employees serving overseas) are treated as being performed in the United Kingdom.

### **Plan investor ceasing to qualify**

8. Notwithstanding any other provision of these Regulations a plan investor who, after subscribing to a plan, at any time ceases to fulfil the conditions of regulation 7(2)(c) may retain the benefits of the plan (including the right to any relief or exemption due under the plan) subsisting at that time but, so long as he fails to fulfil those conditions, shall not be entitled to subscribe further to such a plan.

### **Conditions for application to subscribe to a plan**

9.—(1) An application by an individual to subscribe to a plan must be made to a plan manager in a statement in writing and fulfil the conditions specified in paragraphs (2), (3) and (4).

- (2) An application must specify the year for which the applicant is to subscribe to a plan.
- (3) An application shall provide for a declaration by the applicant that the applicant—
- (a) is 18 years of age or over;
  - (b) fulfils the conditions of regulation 7(2)(b) and (c);
  - (c) has made no other application to subscribe to another plan in the year to which paragraph (2) refers;
  - (d) authorises the plan manager in writing—

- (i) to hold the applicant's cash subscription, plan investments, interest, dividends and any other rights or proceeds in respect of those investments and any other cash;
  - (ii) to make on his behalf any claims to relief from tax in respect of plan investments;
  - (iii) on the applicant's written request to transfer or pay to him, as the case may be, plan investments, interest, dividends, rights or other proceeds in respect of such investments or any cash.
- (4) An application must contain—
- (a) the applicant's full name,
  - (b) his permanent address,
  - (c) his national insurance number, and
  - (d) where he knows it, his tax office reference.
- (5) A plan manager may not accept as a plan investor any individual if he has reason to believe that—
- (a) he is not or might not be a qualifying individual, or
  - (b) he has given untrue information in his application.
- (6) Section 95 of the Management Act shall have effect as if—
- (a) the statement and declaration to which paragraphs (1) and (3) refer were a statement or declaration, as the case may be, within the meaning of subsection (1)(b), and
  - (b) there were substituted for subsection (3) the following words—
    - “(3) The relevant years of assessment for the purposes of this section are the year of assessment in respect of which any claim to relief from tax, in connection with which the statement or declaration is relevant, is made, the next following, and any preceding year of assessment.”

### **Rights issues—relaxation of provisions of regulations 4 and 7**

- 10.**—(1) This regulation prescribes the circumstances in which—
- (a) notwithstanding regulations 4(1)(a) and 7(2)(b) an individual may subscribe to more than one plan in any year, and
  - (b) notwithstanding regulation 4(1)(b) or (2) an individual's cash subscription to a plan in any year may exceed the subscription limit.
- (2) The prescribed circumstances are circumstances in which—
- (a) on the occasion of a new issue of shares a plan manager is entitled, by virtue of a plan investor's beneficial ownership of shares which are plan investments (in this regulation referred to as“original shares”), to subscribe for shares (in this regulation referred to as“new shares”) (being qualifying investments) which are offered to shareholders in proportion to (or as nearly as may be in proportion to) their shareholdings; and
  - (b) the conditions contained in paragraph (3) are fulfilled.
- (3) The conditions to which paragraph (2) refers are—
- (a) that the plan investor—
    - (i) was the beneficial owner of the original shares at the end of the day immediately before that on which the right to subscribe for the new shares was announced; and
    - (ii) subscribes cash not exceeding the total sum payable to acquire the new shares (in this regulation referred to as“the rights subscription”); and
  - (b) that the rights subscription shall—

- (i) be expended only on a subscription for new shares to which paragraph (2) refers, and
- (ii) to the extent that it is not so expended, be transferred to the plan investor together with interest (if any) thereon within 14 days after the date by which the rights subscription is payable by the plan manager under the terms of the offer to subscribe for the new shares.

#### **Plan manager—qualifications and Board’s approval**

**11.**—(1) This regulation specifies the circumstances (“qualifying circumstances”) in which a person may be approved by the Board as a plan manager.

- (2) The qualifying circumstances to which paragraph (1) refers are the following—
  - (a) the person must make written application to the Board for approval in a form prescribed by the Board;
  - (b) a plan manager must be an authorised person within the meaning of Chapter III of Part I of the Financial Services Act 1986<sup>(9)</sup> (“the 1986 Act”); and
  - (c) a plan manager must not be prevented from acting as such by any prohibition by or under rules under section 48 of the 1986 Act, by or under the rules of any recognised self-regulating organisation of which the plan manager is a member, or by or under the rules of any recognised professional body by which the plan manager is certified, or by a prohibition imposed under section 65 of the 1986 Act.

(3) The terms of the Board’s approval may include conditions designed to ensure that the provisions of these Regulations are satisfied.

#### **Plan manager—withdrawal by Board of approval**

**12.**—(1) This regulation specifies the circumstances (“the disqualifying circumstances”) in which the Board may by notice withdraw their approval of a person as a plan manager in relation to a plan.

(2) The disqualifying circumstances to which paragraph (1) refers are that the Board have reason to believe—

- (a) that any provision of these Regulations is not or at any time has not been satisfied in respect of a plan managed by the plan manager; or
- (b) that a person to whom they have given approval to act as a plan manager is not qualified so to act.

(3) The notice to which paragraph (1) refers shall specify—

- (a) the date from which the Board’s approval is withdrawn, and
- (b) the disqualifying circumstances.

#### **Plan manager—appeal against withdrawal of Board’s approval**

**13.**—(1) A plan manager to whom notice of withdrawal of approval has been given under regulation 12 may appeal against the withdrawal by notice given to the Board within 30 days after the date of the notice of withdrawal.

(2) The appeal shall be to the Special Commissioners.

(3) The like provisions as are contained in Part V of the Management Act (appeals and other proceedings)<sup>(10)</sup> shall apply to an appeal and the Special Commissioners shall on appeal to them confirm the notice unless they are satisfied that the notice ought to be quashed.

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<sup>(9)</sup> 1986 c. 60.

<sup>(10)</sup> 1970 c. 9.

**Plan manager ceasing to act**

14. A person shall give notice to the Board and to the subscriber to the plan which he manages of his intention to cease to act as the plan manager within a reasonable time before he so ceases so that his obligations to the Board under the plan can be conveniently discharged at or about the time he ceases so to act.

**Plan manager ceasing to qualify**

15. A person shall cease to qualify as a plan manager and shall notify the Board forthwith of that fact where—

- (a) the person no longer fulfils the conditions of regulation 11;
- (b) in the case of an individual, he becomes bankrupt or, in Scotland, his estate is sequestrated, or makes any arrangement or composition with his creditors generally; or
- (c) in the case of a company a resolution has been passed or a petition has been presented to wind it up.

**Transfer of plans to other plan managers**

16. Where arrangements are made by a plan investor to transfer a plan or plans to another plan manager (“the transferee”) the transfer shall have effect and a plan shall not be otherwise affected for the purpose of these Regulations by the occasion of transfer, provided that the plan manager making the transfer (“the transferor”) has given notice to the Board of the transfer together with the following information—

- (a)
  - (i) the name, address and tax office reference of the transferor;
  - (ii) the name, address and tax office reference of the transferee;
  - (iii) the effective date of transfer;
  - (iv) details of plan investors whose plans are being transferred to the transferee showing names, addresses, national insurance numbers and tax office references;
  - (v) details of plan investors who are to withdraw plan investments.
- (b) A declaration by the transferor that he has fulfilled all his obligations to plan investors, to the Board or otherwise, which are imposed by these Regulations.

**Exemption from tax of plan income and gains**

17. Subject to these Regulations, except interest in respect of plan investments which is not reinvested but is paid to or at the direction of the plan investor or otherwise applied for his benefit, no tax shall be chargeable on the plan manager or his nominee or the plan investor in respect of interest, dividends or gains in respect of plan investments, losses in respect of plan investments shall be disregarded for the purposes of capital gains tax, and relief in respect of tax shall be given in the manner and to the extent provided by these Regulations.

**Tax liabilities and reliefs—plan manager to act on behalf of plan investor**

18.—(1) A plan manager may under these Regulations make claims, conduct appeals and agree on behalf of the plan investor liabilities for and reliefs from tax in respect of a plan.

(2) Claims shall be made to the Board in accordance with the provisions of regulations 19 and 20.

(3) Where any relief or exemption from tax previously given in respect of a plan has by virtue of these Regulations become excessive, in computing the relief due on any claim there shall be



deducted, so that amounts equal to that excess are set-off or repaid to the Board, as the case may be, notwithstanding that those amounts have been invested—

- (a) any amount repaid in respect of a tax credit;
- (b) any other amount due to the Board by a plan manager in respect of any tax liability in respect of investments under a plan including (but without prejudice to the making of an assessment under the provisions of that section) any amount falling due in respect of a liability under section 737 of the Taxes Act<sup>(11)</sup>.

(4) Any amount deducted under paragraph (3) shall be treated as an amount of income tax deducted at source and not repayable within the meaning and for the purposes of section 95(2)(a) of the Management Act.

### **Repayments in respect of tax to plan manager—interim claims**

**19.**—(1) Notwithstanding the provisions of any other enactment, the Board shall not be under an obligation to make any repayment in respect of tax under these Regulations earlier than the end of the month following the month in which the claim for the repayment is received.

(2) A claim for repayment in respect of tax which is not an annual claim (“interim claim”) may be made only for a period of a month (or a number of months not exceeding six) beginning on the 6th day of the month and ending on the 5th day of the relevant following month.

(3) No claim for repayment may be made for the month ending 5th October or any subsequent month until the annual return due in respect of a plan for the preceding year has been duly made by the plan manager and received by the Board.

(4) Where, on the occasion of a claim, there is due to the Board an amount in respect of tax that amount shall be recoverable by the Board in the same manner as tax charged by an assessment on the plan manager which has become final and conclusive.

### **Repayments in respect of tax to plan manager—annual returns and annual claims**

**20.**—(1) An annual claim is a claim for repayment in respect of tax for a year and may not be made at any time more than six years after the end of the year.

(2) A plan manager shall within six months after the end of the year make a return of all income and in addition an annual claim to establish the total of repayments due under a plan for that year.

(3) Where the aggregate of the repayments in respect of interim claims for the year shown by an annual claim exceeds the amount repayable for the year shown on the claim, the plan manager shall repay the amount of the excess to the Board with the claim.

(4) If a plan manager fails to make the return and the annual claim required under this regulation within the time limited, the Board may issue a notice to the plan manager showing the aggregate of payments in respect of the interim claims for the year, and stating that the Board are not satisfied that the amount due to the plan manager for that year exceeds the lower amount stated in the notice.

(5) If a return and an annual claim are not delivered to the Board within 14 days after the issue of such a notice under paragraph (4) the amount of the difference between the aggregate and the lower amount stated in the notice shall immediately be recoverable by the Board in the same manner as tax charged by an assessment on the plan manager which has become final and conclusive.

(6) Where a return and an annual claim have been made and the plan manager subsequently discovers that an error or mistake has been made in the return or claim the plan manager may make a supplementary return or annual claim within the time allowed in paragraph (1).

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(11) 1988 c. 1.

### **Plan manager's returns and claims—supplementary provisions**

- 21.**—(1) Section 42 of the Management Act(**12**) shall not apply to claims under these Regulations.
- (2) No appeal shall lie from the Board's decision on an interim claim.
- (3) An appeal shall be to the Special Commissioners from the Board's decision on an annual claim, and the appeal shall be brought by giving notice to the Board within 30 days of receipt of notice of the decision.
- (4) No payment or repayment made or other thing done on or in relation to an interim claim or a notice under regulation 20(4) shall prejudice the decision on an annual claim.
- (5) The like provisions as are contained in Part V of the Management Act (appeals and other proceedings) shall apply to an appeal under paragraph (3) above, and on an appeal the Special Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.
- (6) All such assessments, payments and repayments shall be made as are necessary to give effect to the Board's decision on an annual claim or to any variation of that decision on appeal.
- (7) Returns and claims under these Regulations shall be in such form and contain such particulars as the Board prescribe and shall be signed by the plan manager; and forms prescribed for annual claims may require a report to be given by a person qualified for appointment as auditor of a company.

### **Assessments for withdrawing relief and recovering tax**

- 22.**—(1) Where—
- (a) any relief or exemption from tax given in respect of income or gains under a plan is found not to be due or to be excessive, or
  - (b) where the full amount of tax in respect of the income or gains under a plan has not otherwise been fully accounted for and paid to the Board by or on behalf of the plan investor,
- an assessment to tax may be made by the Board in the amount or further amount which in their opinion ought to be charged.
- (2) An assessment to which paragraph (1) refers may be made on the plan manager or on the plan investor.
- (3) If the assessment is made to recover tax in respect of income (including any amount in respect of a tax credit) under a plan it shall be made under Case VI of Schedule D.

### **Records to be kept by plan manager**

- 23.**—(1) A plan manager shall at all times keep sufficient records in respect of a plan to enable the requirements of these Regulations to be satisfied.
- (2) The records shall include a valuation of plan investments at their market value as at 5th April each year.

### **Information to be given to plan investor by plan manager**

- 24.**—(1) Where under the terms of a plan a plan manager has discretion to purchase or sell investments he shall give to the plan investor once in every year a statement in writing of his reasons for—
- (a) making a purchase or sale within, and

(b) retaining any investment throughout, the period.

(2) A plan manager who makes a payment to a plan investor out of or in respect of which tax has been deducted shall, if the investor so requests in writing, furnish the investor with a statement in writing showing the gross amount of the payment, the amount deducted and the amount actually paid.

(3) On the transfer to a plan investor of a plan investment the plan manager shall provide for the investor details in writing of the market value on the date of transfer.

### **Information to be provided to the Board**

**25.** The Board may by notice require any person who is or who at any time has been a plan manager or plan investor to furnish them, within such time (not being less than 14 days) as may be provided by the notice, such information about any plan or about any plan investment (including copies of or extracts from any books or other records) as they may reasonably require for the purposes of these Regulations.

### **Inspection of records by officer of the Board**

**26.—**(1) The Board may by notice require any person who is or who at any time has been a plan manager or plan investor, within such time (not being less than 14 days) as may be provided in the notice, to make available for inspection by an officer of the Board authorised for that purpose all documents (including books and other records) in his possession or under his control containing information relating to any plan or to any plan investment.

(2) Where records are maintained by computer the person required to make them available for inspection shall provide the officer making the inspection with all the facilities necessary for obtaining information from them.

### **Capital gains tax—adaptation of enactments**

**27.—**(1) For the purposes of capital gains tax on the occasion when the title to plan investments is transferred from a plan manager to a plan investor there shall be deemed to be a disposal and reacquisition by him of those investments for a consideration equal to their market value.

(2) For the pooling of plan investments for the purposes of Part III of Schedule 19 to the Finance Act 1985<sup>(13)</sup> Part III shall apply for the purposes of these Regulations with the substitution for paragraph 8(2) of the following words—

“(2) This Part of this Schedule shall apply separately to any securities which are plan investments under a plan within the meaning of the Personal Equity Plan Regulations 1989 and, while applying separately to any such securities, this Part of this Schedule shall have effect as if the plan investor held them in a capacity other than that in which he holds any other securities of the same class whether under another plan or otherwise.”

(3) Sections 78 to 81 of the Capital Gains Tax Act 1979<sup>(14)</sup> shall not apply in relation to ordinary shares which are held under a plan if there is by virtue of any allotment for payment as is mentioned in section 77(2) of that Act a reorganisation affecting those shares.

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(13) 1985 c. 54.

(14) 1979 c. 14.

### **Administration of tax in relation to plans—supplementary**

**28.**—(1) Nothing in these Regulations shall be taken to prejudice any powers conferred or duties imposed by or under any enactment in relation to the making of returns of income or gains, or for the recovery of tax, penalties or interest by means of an assessment or otherwise.

(2) Notwithstanding the provisions of these Regulations a plan manager shall not be released from obligations under these Regulations in relation to a plan except under conditions agreed in writing with and notified to that person by the Board.

(3) Subject to the provisions of these Regulations the like provisions as are contained in the Management Act shall apply to any assessment of tax under these Regulations as if it were an assessment of tax for the year in which, apart from these Regulations, the plan investor would have been liable (by reason of his ownership of the investments) and as if—

- (a) the assessment were an assessment specified in sections 55(1) (recovery of tax not postponed) and 86(2) (interest on tax), and
- (b) the sum charged by the assessment were tax specified in the Table in section 86(4) (reckonable date for interest).

(4) The like provisions as are contained in section 97(1) of the Management Act shall apply as if—

- (a) there were inserted after the words“sections 95 and 96 above” the words“or the Personal Equity Plan Regulations 1989”, and
- (b) there were inserted after the words“that they were” the words“or have become”.

(5) Any form prescribed by the Board for the purposes of these Regulations shall provide for a declaration that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person concerned.

(6) No obligation as to secrecy imposed by statute or otherwise shall preclude the Board from disclosing to a plan manager or plan investor that any provision of these Regulations has not been satisfied or that relief has been given or claimed in respect of investments under a plan.

### **Transitional provisions—plans and plan investors under the 1986 Regulations**

**29.**—(1) The 1986 Regulations shall continue to apply to annual plans, notwithstanding the entry into force of these Regulations, during the period from 6th April 1989 until the effective date in relation to any such plan, with the modification that the year which began with 1st January 1989 shall be treated as having ended on the effective date.

(2) With effect from the day following the effective date in relation to an annual plan, the provisions of these Regulations shall apply to it in place of the provisions of the 1986 Regulations.

(3) A plan investor who has subscribed to an annual plan during the year which began with 1st January 1989 may not before the day following the effective date in relation to the plan—

- (a) subscribe further to the plan if that subscription and any previous subscription to the plan for that year would together exceed the limit prescribed by Regulation 4(1)(c) of the 1986 Regulations, or
- (b) subscribe to a plan under regulation 4 of these Regulations.

(4) These Regulations apply to any plan to which a qualifying individual who was a plan investor in respect of an annual plan subscribes in the period from the day following the effective date until 5th April 1990 as if that period were a year for the purpose of these Regulations.

(5) In this regulation—

“annual plan” means a plan to which the 1986 Regulations applied immediately before the entry into force of these Regulations; and

“effective date” in relation to an annual plan means the date which is the earlier of—

- (a) 31st December 1989, and
- (b) the date, being a date after 5th April 1989, which—
  - (i) the plan investor and the plan manager agree in writing, or
  - (ii) where the terms of the agreement between them permit, the plan manager determines,to be the date after which the provisions of these Regulations shall apply to the plan in place of the provisions of the 1986 Regulations.

14th March 1989

*Kenneth Carlisle*  
*Alan Howarth*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate the Personal Equity Plan Regulations 1986 (as amended by the Personal Equity Plan (Amendment) Regulations 1987, the Personal Equity Plan (Amendment) Regulations 1988 and the Personal Equity Plan (Amendment No. 2) Regulations 1988) (“the 1986 Regulations”) with amendments and have effect from 6th April 1989. The principal amendments of the scheme under the 1986 Regulations are the abolition of the cash investment limit, together with the requirement that interest on amounts deposited with a building society or a deposit taker be paid gross, and the abolition of the minimum holding period and consequently the concept of the mature portfolio.

These Regulations also amend the scheme under the 1986 Regulations by providing for an increase in the annual amount of the cash subscription, for shares allotted in pursuance of a public offer to be subscribed to a plan, for changing from a calendar year to a tax year basis, for switching plan investments from shares into authorised unit trusts and investment trusts and for a reduction in the amount of information to be supplied by a plan manager to a plan investor. Interest on plan investments is no longer payable gross but continues to qualify for relief from income tax at the higher rate, so long as it is reinvested. Tax credits are payable in respect of dividends from plan investments whether or not they are reinvested. Transitional arrangements are provided in respect of plans and plan investors under the 1986 Regulations.

On and after 6th April 1990, the Regulations provide a new rule that an authorised unit trust or an investment trust in which plan investments are held must itself have at least 75 per cent. in value of its investments in shares of companies incorporated in the United Kingdom which are quoted shares or shares dealt in on the Unlisted Securities Market.

Regulation 1 provides for the title to and commencement of the Regulations.

Regulation 2 provides definitions.

Regulation 3 gives a general introduction.

Regulation 4 sets out general conditions for plans and subscriptions to plans.

Regulation 5 provides general rules for investment in plans.

Regulation 6 specifies permitted kinds of investment.

Regulation 7 specifies the description of individuals who may be plan investors.

Regulation 8 provides for consequences when certain individuals become disqualified.

Regulation 9 provides conditions for individual applications.

Regulation 10 provides for relaxation of the provisions of regulations 4 and 7 in respect of rights issues.

Regulation 11 provides for approval of plan managers by the Board.

Regulation 12 provides for the withdrawal of that approval in certain circumstances.

Regulation 13 provides for an appeal against such a withdrawal.

Regulation 14 requires a person to notify the Board and investors when ceasing to be a plan manager.

Regulation 15 provides circumstances in which a person shall cease to qualify as a plan manager.

Regulation 16 provides for transfers of plans from one to another plan manager.

Regulation 17 sets out the tax exemptions for plan investors.

Regulation 18 provides that the plan manager shall act on behalf of the plan investor in respect of tax reliefs and liabilities under the plan.

Regulations 19, 20 and 21 provide for claims for relief and for returns.

Regulation 22 makes provision for the withdrawal of relief and the recovery of tax.

Regulation 23 provides for the keeping of plan records.

Regulation 24 provides for information and for a certificate of tax deducted to be given by plan managers to investors.

Regulations 25 and 26 empower the Board to obtain information and to inspect records.

Regulation 27 adapts statutory capital gains tax provisions in relation to plans.

Regulation 28 makes supplementary provisions for tax administration in relation to plans.

Regulation 29 contains transitional arrangements for plans and plan investors under the 1986 Regulations.