
STATUTORY INSTRUMENTS

2004 No. 3267

INCOME TAX

**The Finance Act 2000, Schedule 20 (Definition of
Small or Medium-Sized Enterprise) Order 2004**

<i>Made</i>	- - - -	<i>9th December 2004</i>
<i>Laid before the House of Commons</i>	- - - -	<i>10th December 2004</i>
<i>Coming into force</i>	- -	<i>1st January 2005</i>

The Treasury, in exercise of the powers conferred upon them by paragraph 2(2) of Schedule 20 to the Finance Act 2000(1), make the following Order:

Citation, commencement and effect

1. This Order may be cited as the Finance Act 2000, Schedule 20 (Definition of Small or Medium-Sized Enterprise) Order 2004, shall come into force on 1st January 2005 and has effect in relation to accounting periods ending on or after that date.

Substitution of definition of small or medium-sized enterprise

2.—(1) In paragraph 2(1) of Schedule 20 to the Finance Act 2000 (definition of “small or medium-sized enterprise for the purpose of tax relief for expenditure on research and development) for the words following ““small or medium-sized enterprise” means” substitute—

“a micro, small or medium-sized enterprise as defined in Commission Recommendation 2003/361/EC of 6th May 2003 (“the Recommendation”, references to the Annex being references to the Annex to the Recommendation), subject to the following qualifications.

Qualification 1

If a company (“C”) is a micro, small or medium-sized enterprise, disregarding any partner enterprise or linked enterprise, and, taken alone, it would satisfy the employee limit and at least one of the financial limits, but—

- (a) the number of employees, annual turnover or annual balance sheet total (as the case may be) of a partner enterprise or linked enterprise to which it is related has been taken

into account in determining whether the employee limit or the financial limits have been exceeded, and

- (b) a partner enterprise or linked enterprise to which C is related would, disregarding the number of employees, and the annual turnover and annual balance sheet totals of C, exceed the employee limit, or either of the financial limits,

Article 4(2) of the Annex shall be disregarded in determining whether C is a small or medium-sized enterprise for an accounting period in which it exceeds the employee or financial limits.

Here references to the employee limit and the financial limits are to the limits respectively on the number of employees, and the annual turnover and balance sheet totals, contained in Article 2(1) of the Annex.

Qualification 2

In relation to the first accounting period of an enterprise which ends on or after 1st January 2005, for the purpose of determining whether the enterprise is a small or medium-sized enterprise (see Article 4(2) of the Annex), the Recommendation shall be treated as applying to the immediately preceding accounting period.”

9th December 2004

Derek Twigg
Jim Murphy
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order substitutes a new definition of a small or medium-sized enterprise in paragraph 2(1) of Schedule 20 to the Finance Act 2000 (c. 17) in consequence of the adoption by the Commission of the European Communities of Recommendation 2003/361/EC (O.J. L 124/36 of 20.5.2003) “the Recommendation”.

Article 1 provides for the citation, commencement and effect of the Order.

Article 2 substitutes the new definition. This reflects the provisions of the Recommendation, but also contains anti-avoidance and transitional provision.

This Order does not impose any new costs on business.