



Social Security Contributions (Share Options) Act 2001

2001 CHAPTER 20

3 Special provision for roll-overs

- (1) This section applies where—
 - (a) a right to acquire shares in a body corporate was obtained by any person in the period beginning with 6th April 1999 and ending with 19th May 2000 (“the original right”); and
 - (b) the original right is or has been assigned or released (whether before or after the passing of this Act) for a consideration that consists of or includes another right (“the replacement right”) to acquire shares in that or any other body corporate.
- (2) If the replacement right or any subsequent replacement right was obtained on or before 7th November 2000, that right shall be treated for the purposes of sections 1 and 2 and this section, but subject to subsection (), as a right obtained in the period beginning with 6th April 1999 and ending with 19th May 2000.
- (3) Where the replacement right is or has been obtained after 7th November 2000 a notice may be given under section 1 in respect of the original right, notwithstanding that the assignment or release of that right was before the giving of the notice.
- (4) The liability by virtue of section 2(3) to pay Class 1 contributions in respect of a gain realised on the assignment or release of the original right shall be determined—
 - (a) as if (notwithstanding anything in [^{F1}[^{F2}section 483(1) to (4)] of the Income Tax (Earnings and Pensions) Act 2003]) the replacement right were or, as the case may be, were part of the valuable consideration given for the assignment or release; and
 - (b) as if the value of so much of that consideration as is represented by the replacement right were equal to whichever is the smaller of the following amounts—
 - (i) the amount which (in accordance with the provisions of [^{F3}section 479] of that Act) would have been taken to be the gain realised by an exercise in full of the original right immediately before

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the time of its assignment or release [^{F4}(less any deductible amounts under section 480(1) to (6) of that Act)]; and

- (ii) the amount which (in accordance with those provisions) would have been taken to be the amount of the gain realised by an exercise in full of the replacement right at that time which falls immediately after it is given in consideration of the assignment or release.

(5) Paragraphs (a) and (b) of section 2(1) shall not, where this section applies—

- (a) prevent a liability to pay Class 1 contributions from arising after the passing of this Act in respect of any gain realised on the exercise, assignment or release of the replacement right or of any subsequent replacement right, or
- (b) have the effect of deeming any such liability not to have arisen on any such gain,

but those paragraphs shall have effect (instead) as if they provided for the amount of any such liability to be determined, or to be deemed to have been determined in accordance with the following provisions of this section.

[^{F5}(6) Subject to subsection (7), in relation to the replacement right or any subsequent right, section [^{F6}483(1) to (3)] of the Income Tax (Earnings and Pensions) Act 2003 (application of Chapter 5 of Part 7 where share option exchanged for another) shall be deemed to have effect (or, as the case may be, to have had effect) for the purposes of the determination mentioned in subsection (5) of this section—

- (a) as if that section had effect (or, as the case may be, had had effect) in relation to that right to the extent only that it is a right to acquire additional shares; and
- (b) as if the value of the consideration for the grant of the original right had been nil.]

(7) Where—

- (a) the whole or any part of any consideration given for the assignment or release of the replacement right or of any subsequent replacement right does not (or did not) comprise a subsequent replacement right, and
- (b) as a consequence, a gain would (but for this Act) be taken for the purposes of [^{F7}Chapter 5 of Part 7 of the Income Tax (Earnings and Pensions) Act 2003] to be realised (or to have been realised) on that assignment or release,

that gain shall be taken for the purposes of the determination mentioned in subsection (5) to be (or, as the case may be, to have been) equal to the amount in respect of which liability to pay Class 1 contributions would have been preserved, on the assumptions mentioned in subsection (8), by virtue of section 2(3) (read with subsection (4) of this section) or, if no such liability would have been so preserved, to nil.

(8) Those assumptions are—

- (a) that (subject to paragraph (c)) the right assigned or released is a right the liability to pay Class 1 contributions in respect of which is a liability to which section 2(1)(a) or (b) applied;
- (b) that references in subsection (4) of this section to the original right and to the replacement right are references, respectively, to the right that is assigned or released and to the right comprised in the consideration for the assignment or release; and
- (c) that so much of the right assigned or released as is a right to acquire additional shares is to be disregarded for the purposes of both section 2(3) and subsection (4) of this section.

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- (9) Nothing in the preceding provisions of this section shall limit or remove, or be deemed to have limited or removed, any liability to pay Class 1 contributions in respect of a gain arising on the exercise, assignment or release of the replacement right, or of any subsequent replacement right, in any case in which the right in question or that gain derives (directly or indirectly) from a transaction the purpose, or one of the main purposes, of which was to make use of the provisions of this Act to avoid the payment of such contributions in respect of a benefit conferred after 19th May 2000.
- (10) For the purposes of this section shares are additional shares, in relation to any right (“the new right”) constituting or comprised in the consideration for the assignment or release of another right (“the old right”), to the extent that they are shares obtainable in exercise of the new right in addition to shares obtainable in exercise of the old right with a value that matches the value of the shares (other than any that were themselves additional shares) which were obtainable by the exercise of the old right.
- (11) For the purposes of subsection (10) shares obtainable by the exercise of the new right shall be taken to have a value that matches the value of the shares obtainable in exercise of the old right to the extent, and to the extent only, that the following amounts are the same—
- (a) the amount which (in accordance with the provisions of [F⁸section 479 of the Income Tax (Earnings and Pensions) Act 2003]) would be taken to be the amount of the gain realised by an exercise of the new right at the relevant time (assuming it to be exercisable at that time) for obtaining the shares [F⁹(less any deductible amounts under section 480(1) to (6));] and
 - (b) the amount which would have been taken (in accordance with those provisions) to be the gain realised by a full exercise of the old right immediately before the time of its assignment or release;
- and in this subsection “the relevant time”, in relation to the new right, means the time which falls immediately after it is given in consideration of the assignment or release of the old right.
- (12) Where any question arises for the purposes of this Act, in relation to any partial exercise, assignment or release of any right, whether the shares obtainable under so much of the right as has been exercised, assigned or released were additional shares, it shall be assumed that the right in so far as it is a right to acquire additional shares must be exercised, assigned or released before the exercise, assignment or release of any part of that right that is a right to acquire shares that are not additional shares.
- (13) All such apportionments as may be necessary shall be made in determining for the purposes of this section, in a case in which the number of additional shares cannot be a whole number, to what extent a liability to pay Class 1 contributions arises in relation to the exercise, assignment or release of a right to acquire any such shares.
- (14) Nothing in this section shall apply (where the replacement right was granted on or before 7th November 2000) for determining the amount of any special contribution payable under section 2.
- (15) Where subsection (5) applies in relation to any liability to pay Class 1 contributions and amounts have already been paid to the Inland Revenue in respect of that liability before the passing of this Act—
- (a) all such repayments shall be made as may be necessary by virtue of that subsection; but

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- (b) any amount which it would otherwise be necessary to repay in respect of a secondary Class 1 contribution paid by a person who has become liable to pay a special contribution under section 2 may be retained and set against any undischarged liability of his to pay that special contribution.

- (16) In this section references to a subsequent replacement right are references to any right to acquire shares in a body corporate which are or have been obtained by any person as, or as part of, the consideration for the assignment or release by him of the replacement right or of a subsequent replacement right.

Textual Amendments

- F1** Words in s. 3(4)(a) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 261\(2\)](#) (with [Sch. 7](#))
- F2** Words in s. 3(4)(a) substituted (with effect in accordance with Sch. 22 para. 55(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 57\(2\)\(a\)](#); S.I. 2003/1997, art. 2
- F3** Words in s. 3(4)(b)(i) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 261\(3\)](#) (with [Sch. 7](#))
- F4** Words in s. 3(4)(b)(i) inserted (with effect in accordance with Sch. 22 para. 55(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 57\(2\)\(b\)](#); S.I. 2003/1997, art. 2
- F5** S. 3(6) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 261\(4\)](#) (with [Sch. 7](#))
- F6** Words in s. 3(6) substituted (with effect in accordance with Sch. 22 para. 55(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 57\(3\)](#); S.I. 2003/1997, art. 2
- F7** Words in s. 3(7)(b) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 261\(5\)](#) (with [Sch. 7](#))
- F8** Words in s. 3(11)(a) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 261\(6\)](#) (with [Sch. 7](#))
- F9** Words in s. 3(11)(a) inserted (with effect in accordance with Sch. 22 para. 55(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 22 para. 57\(4\)](#); S.I. 2003/1997, art. 2

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