

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 6. (See end of Document for details)

SCHEDULES

SCHEDULE 3

^{F1}... SAYE OPTION SCHEMES

Textual Amendments

- F1** Word in [Sch. 3](#) title omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 103, 146](#) (with [Sch. 8 paras. 147-157](#))

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),
^{F1}
...
paragraph 32 (exercise of options: death), [^{F2}and]
^{F3}
...
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).

Textual Amendments

- F1** Words in [Sch. 3 para. 27\(1\)](#) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 8\(a\)](#) (with [Sch. 2 paras. 16, 17](#))
- F2** Word in [Sch. 3 para. 27\(1\)](#) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 8\(b\)](#) (with [Sch. 2 paras. 16, 17](#))
- F3** Words in [Sch. 3 para. 27\(1\)](#) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 8\(c\)](#) (with [Sch. 2 paras. 16, 17](#))

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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^{F4}—
 - (i) at that time, or
 - (ii) at such earlier time as may be determined in accordance with guidance issued by the Commissioners for Her Majesty's Revenue and Customs.]

This is subject to ^{F5}sub-paragraph (3)].

^{F6}(2)

(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,

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

^{F7}(3A) If the scheme makes provision under sub-paragraph (3), the variation or variations made under that provision to take account of a variation in any share capital must (in particular) secure—

- (a) that the total market value of the shares which may be acquired by the exercise of the share option is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations, and
- (b) that the total price at which those shares may be acquired is immediately after the variation or variations substantially the same as what it was immediately before the variation or variations.

(3B) Sub-paragraph (3) does not authorise any variation which would result in the requirements of the other paragraphs of this Schedule not being met in relation to the share option.]

^{F8}(4)

^{F9}(5) At the time a share option is granted—

- (a) it must be stated whether or not the shares which may be acquired by the exercise of the option may be subject to any restriction, and
- (b) if so, the details of the restriction must also be stated.

(6) For the purposes of this paragraph the market value of shares subject to a restriction is to be determined as if they were not subject to the restriction.]

Textual Amendments

F4 Words in Sch. 3 para. 28(1)(b) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 3 para. 6\(2\)\(a\)](#)

F5 Words in Sch. 3 para. 28(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 3 para. 6\(2\)\(b\)](#)

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- F6** Sch. 3 para. 28(2) omitted (15.9.2016) by virtue of Finance Act 2016 (c. 24), **Sch. 3 para. 6(3)**
- F7** Sch. 3 para. 28(3A)(3B) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 111(2)**, 146 (with Sch. 8 paras. 147-157)
- F8** Sch. 3 para. 28(4) omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 111(3)**, 146 (with Sch. 8 paras. 147-157)
- F9** Sch. 3 para. 28(5)(6) inserted (with effect in accordance with Sch. 2 para. 67 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 2 para. 62**

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 [F1032,] 34 and 37 (exercise of options in the event of death, F11... 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 [F12the approved savings arrangement] 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.

Textual Amendments

- F10** Word in Sch. 3 para. 30(2)(a) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 2 para. 9(a)** (with Sch. 2 paras. 16, 17)
- F11** Words in Sch. 3 para. 30(2)(a) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 2 para. 9(b)** (with Sch. 2 paras. 16, 17)
- F12** Words in Sch. 3 para. 30(3) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 618(10)** (with Sch. 2)

Requirement to have a “specified age”

F1331

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Textual Amendments

- F13** Sch. 3 para. 31 omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 10** (with [Sch. 2 paras. 16, 17](#))

Exercise of options: death

- 32 The scheme must provide that, if a participant dies before exercising the options, they may be exercised [^{F14}at any time] 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.

Textual Amendments

- F14** Words in [Sch. 3 para. 32](#) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 8 paras. 112, 146** (with [Sch. 8 paras. 147-157](#))

Exercise of options: reaching specified age without retiring

^{F15}33

Textual Amendments

- F15** Sch. 3 para. 33 omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 2 para. 11** (with [Sch. 2 para. 17](#))

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 subparagraphs (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 [^{F16} or ER(NIO) 1996], ^{F17}...
 - (b) retirement ^{F18} ...,
 - ^{F19}(c) a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006, or
 - (d) if P holds office or is employed in a company which is an associated company (as defined in paragraph 35(4)) of the scheme organiser, that company ceasing to be an associated company of the scheme organiser by reason of a change of control (as determined in accordance with sections 450 and 451 of CTA 2010),]
- the options may only be exercised within 6 months after the termination date.

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- (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) [^{F20}to (d)], share options granted 3 years or less before the termination date may not be exercised at all.
- (5) The scheme may [^{F21}make provision about the time when the options may be exercised] in a case where P ceases to hold the scheme-related employment only because—
- ^{F22}(a)
 - (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 [^{F23}where the transfer is not a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 2006].
- ^{F24} ...
- [^{F25}(5A) If the scheme makes provision by virtue of sub-paragraph (5), the provision must be either—
- (a) that the options may be exercised within 6 months after the termination date, or
 - (b) that the options may be exercised within 6 months after the date (if any) when P ceases to hold the employment which (before the termination date) was the scheme-related employment for a reason within sub-paragraph (2) (a) [^{F26}to (d)].]
- (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).

Textual Amendments

- F16** Words in Sch. 3 para. 34(2)(a) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 21 para. 11\(2\)](#)
- F17** Word in Sch. 3 para. 34(2) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 23\(2\)\(a\)](#) (with [Sch. 2 para. 23\(4\)](#))
- F18** Words in Sch. 3 para. 34(2)(b) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 12](#) (with [Sch. 2 para. 17](#))
- F19** Sch. 3 para. 34(2)(c)(d) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 23\(2\)\(b\)](#) (with [Sch. 2 para. 23\(4\)](#))
- F20** Words in Sch. 3 para. 34(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 23\(3\)](#) (with [Sch. 2 para. 23\(4\)](#))

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- F21** Words in Sch. 3 para. 34(5) substituted (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 21 para. 11(3)(a)**
- F22** Sch. 3 para. 34(5)(a) and word omitted (6.4.2014) by virtue of Finance Act 2014 (c. 26), **Sch. 8 paras. 113(a), 146** (with **Sch. 8 paras. 147-157**)
- F23** Words in Sch. 3 para. 34(5)(b) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 8 paras. 113(b), 146** (with **Sch. 8 paras. 147-157**)
- F24** Words in Sch. 3 para. 34(5) repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 21 para. 11(3)(b), **Sch. 43 Pt. 3(3)**
- F25** Sch. 3 para. 34(5A) inserted (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 21 para. 11(4)**
- F26** Words in Sch. 3 para. 34(5A)(b) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 2 para. 23(3)** (with **Sch. 2 para. 23(4)**)

Time when scheme-related employment ends

- 35 (1) This paragraph applies for the purposes of paragraph 34 (exercise of options: scheme-related employment ends).
- (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—
- P’s scheme-related employment terminates, but
 - 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—
- one has control of the other, or
 - 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 [F27sections 450 and 451 of CTA 2010] (“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.

Textual Amendments

- F27** Words in Sch. 3 para. 35(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 397(4)** (with **Sch. 2**)

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—
- an associated company of the scheme organiser, but

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- (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) [^{F28}, (4ZA)] [^{F29}, (4A)] 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.
- [^{F30}(3A) In sub-paragraph (3)(a) the reference to the issued ordinary share capital of the company does not include any capital already held by the person making the offer or a person connected with that person and in sub-paragraph (3)(b) the reference to the shares in the company does not include any shares already held by the person making the offer or a person connected with that person.
- (3B) For the purposes of sub-paragraph (3)(a) and (b) it does not matter if the general offer is made to different shareholders by different means.]
- (4) The relevant date for the purposes of this sub-paragraph is the date when the court sanctions under [^{F31}section 899 of the Companies Act 2006 (court sanction for compromise or arrangement)] a compromise or arrangement [^{F32}applicable to or affecting—
- (a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or
- (b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in [^{F33}a Schedule 3] SAYE option scheme.]
- [^{F34}(4ZA) The relevant date for the purposes of this sub-paragraph is the date when the court sanctions under section 901F of the Companies Act 2006 (court sanction for compromise or arrangement) a compromise or arrangement applicable to or affecting—
- (a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or
- (b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employment or directorships or their participation in a Schedule 3 SAYE option scheme.]
- [^{F35}(4A) The relevant date for the purposes of this sub-paragraph is the date on which a non-UK company reorganisation arrangement applicable to or affecting—

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- (a) all the ordinary share capital of the company or all the shares of the same class as the shares to which the option relates, or
 - (b) all the shares, or all the shares of that same class, which are held by a class of shareholders identified otherwise than by reference to their employments or directorships or their participation in a Schedule 3 SAYE option scheme, becomes binding on the shareholders covered by it.]
- (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 [^{F36}sections 979 to 982 [^{F37}or 983 to 985] of the Companies Act 2006 (takeover offers: right of offeror to buy out minority shareholder [^{F38}etc])].
- [^{F39}(6A) Sub-paragraphs (6B) to (6F) apply if the scheme makes provision under sub-paragraph (1) or (6).
- (6B) The scheme may provide that if, in consequence of a relevant event, shares in the company to which a share option relates no longer meet the requirements of Part 4 of this Schedule, the share option may be exercised under the provision made under sub-paragraph (1) or (6) (as the case may be) no later than 20 days after the day on which the relevant event occurs, notwithstanding that the shares no longer meet the requirements of Part 4 of this Schedule.
- (6C) In sub-paragraph (6B) “relevant event” means—
- (a) a person obtaining control of the company as mentioned in sub-paragraph (2) (a);
 - (b) a person obtaining control of the company as a result of a compromise or arrangement sanctioned by the court as mentioned in sub-paragraph (4) [^{F40}or (4ZA)];
 - (c) a person obtaining control of the company as a result of a non-UK company reorganisation arrangement which has become binding on the shareholders covered by it as mentioned in sub-paragraph (4A);
 - (d) a person who is bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6) obtaining control of the company.
- (6D) Provision made under sub-paragraph (6B) may not authorise the exercise of a share option, as the case may be—
- (a) at a time outside the 6 month period mentioned in sub-paragraph (1), or
 - (b) at a time not covered by sub-paragraph (6).
- (6E) The scheme may provide that a share option relating to shares in a company which is exercised during the period of 20 days ending with—
- (a) the relevant date for the purposes of sub-paragraph (2), (4) [^{F41}, (4ZA)] or (4A), or
 - (b) the date on which any person becomes bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6),
- is to be treated as if it had been exercised in accordance with the provision made under sub-paragraph (1) or (6) (as the case may be).
- (6F) If the scheme makes provision under sub-paragraph (6E) it must also provide that if—

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- (a) a share option is exercised in reliance on that provision in anticipation of—
 - (i) an event mentioned in sub-paragraph (2), (4) [^{F42}, (4ZA)] or (4A) occurring, or
 - (ii) a person becoming bound or entitled to acquire shares in the company as mentioned in sub-paragraph (6), but
- (b) as the case may be—
 - (i) the relevant date for the purposes of sub-paragraph (2), (4) [^{F43}, (4ZA)] or (4A) does not fall during the period of 20 days beginning with the date on which the share option is exercised, or
 - (ii) the person does not become bound or entitled to acquire shares in the company by the end of the period of 20 days beginning with the date on which the share option is exercised,

the exercise of the share option is to be treated as having had no effect.]

- (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).

Textual Amendments

- F28** Word in Sch. 3 para. 37(1) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 24\(2\)\(a\)](#) (with ss. 2(2), 5(2))
- F29** Words in Sch. 3 para. 37(1) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 114\(2\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F30** Sch. 3 para. 37(3A)(3B) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 24\(2\)](#) (with [Sch. 2 para. 24\(3\)](#))
- F31** Words in Sch. 3 para. 37(4) substituted for Sch. 3 para. 37(4)(a)(b) (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), arts. 1(1), [32\(2\)](#) (with art. 4)
- F32** Words in Sch. 3 para. 37(4) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 24\(4\)](#) (with [Sch. 2 para. 24\(5\)](#))
- F33** Words in Sch. 3 para. 37(4)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 114\(3\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F34** Sch. 3 para. 37(4ZA) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 24\(2\)\(b\)](#) (with ss. 2(2), 5(2))
- F35** Sch. 3 para. 37(4A) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 114\(4\)](#), 146 (with [Sch. 8 paras. 147-157](#))
- F36** Words in Sch. 3 para. 37(6) substituted for Sch. 3 para. 37(6)(a)(b) (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), [Sch. 3 para. 3](#) (with art. 11(1))
- F37** Words in Sch. 3 para. 37(6) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 24\(6\)\(a\)](#) (with [Sch. 2 para. 24\(7\)](#))
- F38** Word in Sch. 3 para. 37(6) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 2 para. 24\(6\)\(b\)](#) (with [Sch. 2 para. 24\(7\)](#))
- F39** Sch. 3 para. 37(6A)-(6F) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 114\(5\)](#), 146 (with [Sch. 8 paras. 147-157](#))

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- F40** Words in Sch. 3 para. 37(6C)(b) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\)](#), **Sch. 9 para. 24(2)(c)** (with ss. 2(2), 5(2))
- F41** Word in Sch. 3 para. 37(6E)(a) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\)](#), **Sch. 9 para. 24(2)(d)** (with ss. 2(2), 5(2))
- F42** Word in Sch. 3 para. 37(6F)(a)(i) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\)](#), **Sch. 9 para. 24(2)(e)** (with ss. 2(2), 5(2))
- F43** Word in Sch. 3 para. 37(6F)(b)(i) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\), s. 49\(1\)](#), **Sch. 9 para. 24(2)(e)** (with ss. 2(2), 5(2))

Changes to legislation:

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