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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 723

TRANSITIONALS AND SAVINGS

PART 1

CONTINUITY OF THE LAW

- 1 The repeal of provisions and their enactment in a rewritten form in this Act does not affect the continuity of the law.
- 2 Paragraph 1 does not apply to any change in the law made by this Act.
- 3 Any subordinate legislation or other thing which—
 - (a) has been made or done, or has effect as if made or done, under or for the purposes of a repealed provision, and
 - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 Any reference (express or implied) in any enactment, instrument or document to—
 - (a) a rewritten provision, or
 - (b) things done or falling to be done under or for the purposes of a rewritten provision,is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding repealed provision had effect, a reference to the repealed provision or (as the case may be) things done or falling to be done under or for the purposes of the repealed provision.
- 5 Any reference (express or implied) in any enactment, instrument or document to—
 - (a) a repealed provision, or
 - (b) things done or falling to be done under or for the purposes of a repealed provision,is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision or (as the case may be) things done or falling to be done under or for the purposes of the rewritten provision.
- 6 Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (c. 30) (but are without prejudice to any other provision of that Act).
- 7 Paragraphs 4 and 5 apply only in so far as the context permits.

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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.
- (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—

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- (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”.

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- 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).

PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNING

Taxable benefits: dispensations relating to benefits within provisions not applicable to lower-paid employments

- 15 (1) An existing notification—
- (a) is not affected by any of the repeals made by this Act, but
 - (b) continues in force as if it were a dispensation given under section 65 (dispensations relating to benefits within provisions not applicable to lower-paid employment),
- and accordingly, where an existing notification is revoked under that section for any period before 6th April 2003, subsection (8) or (9) of that section extends to tax years before the tax year 2003-04.
- (2) In this paragraph an “existing notification”—
- (a) means a notification which, immediately before 6th April 2003, was in force under section 166(1) of ICTA (notice of nil liability in respect of payments, benefits or facilities); and
 - (b) includes a notification whose validity was preserved by subsection (4) of that section (notifications given under section 199 of FA 1970);
- but a notification within paragraph (b) only continues to have effect under this paragraph in respect of any liability to tax arising by virtue of Chapter 3 (expenses) or 10 (residual liability to charge) of Part 3.
- 16 (1) This paragraph applies if—
- (a) mileage allowance payments are made to an employee in respect of the use of a vehicle that is not a company vehicle, or
 - (b) mileage allowance relief is available in respect of the use by an employee of a vehicle.
- (2) Any notification under section 166(1) of ICTA (notice of nil liability in respect of payments, benefits or facilities) which—
- (a) was in force immediately before 6th April 2002, and
 - (b) has effect as a dispensation under section 65 (dispensations relating to benefits within provisions not applicable to lower-paid employment),
- does not apply in relation to payments made, or benefits or facilities provided, in respect of expenses incurred in connection with the use of the vehicle by the employee for business travel.
- (3) In this paragraph “business travel”, “company vehicle” and “mileage allowance payment” have the same meanings as in Chapter 2 of Part 4.

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Taxable benefits: the benefits code

- 17 (1) In relation to times before 6th April 2003, references in the benefits code to “employment”, “employed”, “employee” and “employer” are to be read in accordance with this paragraph.
- (2) In relation to the Chapters of the benefits code listed in section 216(4) (provisions not applicable to lower-paid employments), the references mentioned in sub-paragraph (1) are to be read in accordance with section 66 (meaning of employment and related expressions) but as if in subsection (1)(a) there were substituted “an employment to which Chapter 2 of Part 5 of ICTA applies” for “a taxable employment under Part 2”.
- (3) In relation to any other Chapters of the benefits code, the references mentioned in sub-paragraph (1) are to be read in accordance with section 66 but as if in subsection (1)(a) there were substituted “an employment the emoluments of which fall to be assessed under Schedule E” for “a taxable employment under Part 2”.
- (4) Where this paragraph applies, Chapter 11 of Part 3 (exclusion of lower-paid employments from parts of benefits code) does not apply.
- (5) This paragraph is subject to paragraphs 18(2), 24, 27(3), 29(4) and 31(2) of this Schedule.

Taxable benefits: vouchers and credit-tokens

- 18 (1) For the purpose of applying sections 82 to 89 (non-cash vouchers) in relation to times before 6th April 2003, Chapter 4 of Part 3 applies with the following modification.
- (2) In section 89(1)(c) (reduction for meal vouchers) substitute “an employment which is not an employment within the meaning of section 167(1)(b) of ICTA” for “lower-paid employment within the meaning of Chapter 11 of this Part (see section 217)”.
- 19 (1) This paragraph applies to a notification which, immediately before 6th April 2003, was in force under section 144(1) of ICTA (notice of nil liabilities in respect of vouchers or credit-tokens).
- (2) The notification—
- (a) is not affected by any repeals made by this Act, but
- (b) continues in force as if it were a dispensation given under section 96 (dispensations relating to vouchers or credit-tokens),
- and accordingly, where the notification is revoked under that section for any period before 6th April 2003, subsection (7) or (8) of that section extends to tax years before the tax year 2003-04.
- 20 (1) This paragraph applies if—
- (a) mileage allowance payments are made to an employee in respect of the use of a vehicle that is not a company vehicle, or
- (b) mileage allowance relief is available in respect of the use by an employee of a vehicle.
- (2) Any notification under section 144(1) of ICTA (notice of nil liability in respect of vouchers or credit-tokens) which—
- (a) was in force immediately before 6th April 2002, and

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(b) has effect as a dispensation under section 96 (dispensations relating to vouchers or credit-tokens),

does not apply in relation to cash vouchers, non-cash vouchers or credit-tokens provided in respect of expenses incurred in connection with the use of the vehicle by the employee for business travel.

(3) In this paragraph “business travel”, “company vehicle” and “mileage allowance payment” have the same meanings as in Chapter 2 of Part 4.

Taxable benefits: living accommodation

21 (1) Section 107 (special rule for calculating cost of providing accommodation) does not apply if the employee first occupied the living accommodation before 31st March 1983.

(2) Nothing in this paragraph affects the operation of section 107 as applied by section 398(2)(b) or 415(2)(b).

Taxable benefits: cars, vans and related benefits

22 (1) In relation to a capital sum contributed by the employee before 6th April 2003, section 132 (cars: capital contributions by employee) applies with the following modifications.

(2) In subsection (1)(b) substitute “under sections 168A to 168C of ICTA in determining the price of the car as regards a year” for “in calculating the cash equivalent of the benefit of the car”.

(3) In subsection (2)—

(a) omit paragraph (a), and

(b) in paragraph (b) substitute “ the tax years after the tax year in which the contribution was made which are ” for “subsequent”.

23 (1) In relation to a capital sum contributed by the employee before 6th April 2003, section 147 (classic cars: 15 years of age or more) applies with the following modifications.

(2) In subsection (5)(b) substitute “under section 168F(3) of ICTA in determining the price of the car as regards a year” for “in determining the market value of the car”.

(3) In subsection (6)—

(a) omit paragraph (a), and

(b) in paragraph (b) substitute “ the tax years after the tax year in which the contribution was made which are ” for “subsequent”.

^{F1}24

Textual Amendments

F1 Sch. 7 para. 24 repealed (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(9\)](#)

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Taxable benefits: loans

- 25 (1) Chapter 7 of Part 3 applies to a loan made at any time, including one made before 29th July 1976 (the date on which FA 1976 was passed).
- (2) But section 188 (loan released or written off: amount treated as earnings) does not apply to benefits received in pursuance of arrangements made at any time with a view to protecting the holder of shares acquired before 6th April 1976 from a fall in their market value.
- 26 (1) This paragraph relates to the operation of section 183 (alternative method of calculation) in relation to section 177(2) (exceptions for loans at fixed rate of interest) in the case of a loan made before 6th April 2003.
- (2) Where section 183 applies, then for the purpose of calculating under section 177(2) the amount of interest that would have been payable on the loan at the official rate of interest for the year in which the loan was made, in step 3 in section 183(3) for “the number of days in the tax year” substitute “ 365 ”.
- 27 (1) Subject to paragraph 25(2), where a loan is made before 6th April 2003, section 188 (loan released or written off: amount treated as earnings) applies with the following modifications.
- (2) References to the employment in relation to which a loan is an employment-related loan are to be read, in relation to times before 6th April 2003, as references to the employment referred to in section 174 (employment-related loans) as modified by paragraph 17.
- (3) In relation to times before 6th April 2003—
- (a) in subsection (2)(c), substitute “an employment to which Chapter 2 of Part 5 of ICTA applies” for “not an excluded employment”, and
- (b) in subsection (3)(a), substitute “ an employment to which Chapter 2 of Part 5 of ICTA does not apply ” for “excluded employment”.

Taxable benefits: notional loans in respect of acquisitions of shares

- 28 Chapter 8 of Part 3 does not apply in relation to acquisitions on or before 6th April 1976.
- 29 (1) This paragraph relates to the operation of Chapter 8 of Part 3 in relation to an acquisition made before 6th April 2003.
- (2) If—
- (a) the acquisition gave rise to a notional loan under section 162(1) of ICTA, and
- (b) the notional loan has not terminated under section 162(4) of ICTA before 6th April 2003,
- the condition in section 193(1) (notional loan where acquisition for less than market value) is taken to be met and section 193(3) and (4) apply accordingly.
- (3) In such a case, the amount initially outstanding of the notional loan for the purposes of Chapter 8 of Part 3 is taken to be the amount initially outstanding calculated under section 162 of ICTA in relation to the tax year 2002-03.
- (4) In such a case, section 195(3)(c) (discharge of notional loan: amount treated as earnings) applies, in relation to times before 6th April 2003, with the substitution of

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“an employment to which Chapter 2 of Part 5 of ICTA applies” for “not an excluded employment”.

Taxable benefits: disposals of shares for more than market value

^{F2}30

Textual Amendments

F2 Sch. 7 para. 30 repealed (with effect in accordance with Sch. 22 para. 46(26)(a) of the amending Act) by Finance Act 2003 (c. 14), Sch. 22 para. 46(2), **Sch. 43 Pt. 3(4)**

^{F3}31

Textual Amendments

F3 Sch. 7 para. 31 repealed (with effect in accordance with Sch. 22 para. 46(26)(a) of the amending Act) by Finance Act 2003 (c. 14), Sch. 22 para. 46(2), **Sch. 43 Pt. 3(4)**

Taxable benefits: residual liability to charge

- 32 (1) This paragraph applies in relation to Chapter 10 of Part 3.
- (2) In section 206, the references in subsection (4) and step 2 in subsection (5) to the cost of a benefit determined under section 205 are to be read as including a reference to the cost of a benefit determined under section 156(5) of ICTA.
- (3) Sections 212, 213 and 215 do not have effect in relation to any payment if—
- it is made in respect of a scholarship awarded before 15th March 1983,
 - the first payment in respect of the scholarship was made before 6th April 1984, and
 - in relation to payments made after 5th April 1989, the person holding the scholarship (“the scholar”) is receiving full-time instruction at the university, college, school or other educational establishment at which the scholar was receiving such instruction on—
 - 15th March 1983, in a case where the first payment in respect of the scholarship was made before that date, or
 - the date on which the first such payment was made, in any other case.
- (4) For the purposes of sub-paragraph (3)(c), a payment made before 6th April 1989 in respect of any period beginning on or after that date is treated as made at the beginning of that period.

PART 4

EMPLOYMENT INCOME: EXEMPTIONS

Incidental overnight expenses and benefits

- 33 In determining whether section 240(1) or (2) or 268 applies—

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- (a) in the case of a period of absence which began before 6th April 2003 and ends on or after that date, or
- (b) in the case of a period of absence which begins on or after that date and incidentally to which goods, services or money are obtained using a non-cash voucher in relation to which section 141(6C) of ICTA applies,

the question whether for the purposes of section 241 the exemption provisions total exceeds the permitted amount is to be determined as if this Act had applied at any relevant time before that date.

34 In determining—

- (a) whether section 141(6C) and (6D), 142(3C) and (3D), 155(1B) and (1C) or section 200A of ICTA applies in the case of a period of absence which began before 6th April 2003 and ends on or after that date, or
- (b) whether section 141(6C) and (6D) applies in the case of a period of absence which begins on or after that date,

the question whether the authorised maximum (as defined in section 200A(4) of ICTA) is exceeded in relation to the absence is to be determined as if in section 200A(5) after the words “exceeded by” there were inserted the words “the aggregate of the exemption provisions total in respect of the period (as defined in section 241 of ITEPA 2003) and”.

Removal benefits and expenses

35 (1) Section 287 (limit on exemption for removal benefits and expenses) applies with the modification in sub-paragraph (2) where—

- (a) a benefit is provided on or after 6th April 2003 in connection with a change of an employee’s residence, or
- (b) expenses are incurred on or after that day in connection with such a change, and any such benefits have been provided or expenses incurred before that date in connection with that change.

(2) In subsection (2) before paragraph (a) insert—

“(aa) the total value to the employee immediately before 6th April 2003, as defined in paragraph 24(2) of Schedule 11A to ICTA,”.

36 A direction under paragraph 6(2) of Schedule 11A to ICTA (directions as to meaning of “the relevant day”) by virtue of which a day on or after 6th April 2003 was directed to be the relevant day in relation to a change of residence—

- (a) is not affected by any repeals made by this Act, but
- (b) continues in force as respects any benefit provided or expenses incurred on or after that date as if it were a direction given under section 274(2) (directions as to the limitation day), directing that day to be the limitation day.

Retraining courses

37 (1) The repeal of sections 588(5)(a) and 589(3) and (4) of ICTA does not affect—

- (a) the operation of section 588(5) of ICTA by virtue of paragraph (a) of that provision where liability for a tax year before 2003-04 is determined,
- (b) the operation of section 588(5) of ICTA by virtue of paragraph (b) of that provision where liability is determined on the assumption that the person

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undertaking the course fell within section 588(1) of ICTA in such a tax year,
or

- (c) the operation of section 588(6) and (7) of ICTA as they apply by virtue of sub-paragraph (2).

- (2) In any case where there has been such a determination as is mentioned in sub-paragraph (1)(a) or (b), section 588(6) and (7) apply as if section 588(6) referred to a failure to comply with any provision of section 589(3) or (4) of ICTA instead of a failure to meet such a condition as is mentioned in section 312(1)(b)(i) or (ii) of this Act.

Suggestion awards

- 38 (1) This paragraph applies for the purpose of determining the extent, if any, to which section 321(2) (exemption of suggestion awards) applies in respect of a financial benefit award for a suggestion (“the later award”) in a case where such an award (“the earlier award”) has been made for the same suggestion on a previous occasion or occasions before the tax year 2003-04.
- (2) For the purposes of the application of section 322(3) in relation to the later award, “the residue of the suggestion maximum” means the suggestion maximum, as defined in section 322(4), less the aggregate of—
- (a) the total of the amounts exempted from income tax under section 321 in respect of financial benefit awards for the same suggestion made on previous occasions, and
 - (b) the total of the earlier awards.

PART 5

EMPLOYMENT INCOME: DEDUCTIONS

Earnings charged on remittance

- 39 In relation to expenses incurred before the tax year 2003-04, section 353 (deductions from earnings charged on remittance) applies as if the condition in subsection (3) of that section were that the expenses would have been deductible under section 193, 194, 195 or 198(1) of ICTA from emoluments of the office or employment if those emoluments had been chargeable under Case I of Schedule E for the tax year in which the expenses were incurred.

Non-domiciled employee’s travel costs and expenses: “qualifying arrival date”

- 40 In relation to any time before 6th April 2003, section 375 (meaning of “qualifying arrival date”) has effect as if the references in subsections (1)(a) and (4) to the person receiving earnings for duties performed in the United Kingdom included a reference to the person receiving emoluments for such duties.

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PART 6

EMPLOYMENT INCOME: INCOME WHICH IS NOT EARNINGS OR [^{F4}RELATED TO SECURITIES]

Textual Amendments

F4 Words in Sch. 7 Pt. 6 heading substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(3\)](#)

Benefits from non-approved pension schemes

- 41 (1) Chapter 2 of Part 6 (benefits from non-approved pension schemes) applies with the following modifications in relation to a benefit provided under a non-approved retirement benefits scheme which—
- (a) was entered into before 1 December 1993, and
 - (b) has not been varied on or after that day with a view to the provision of the benefit.
- (2) Section 393(2) does not apply.
- (3) Section 394(5) does not apply.
- (4) For sections 395, 396 and 397 substitute—

“394A Pre-December 1993 schemes: chargeability of certain lump sums

- (1) Section 394 does not apply to a lump sum to the extent that the lump sum is attributable to the payment of a sum—
- (a) which is deemed to be the income of a person by virtue of section 595(1) of ICTA and in respect of which that person has been assessed to tax, or
 - (b) which counted as the employment income of an employee by virtue of section 386(1) of this Act.
- (2) For the purposes of subsection (1) it must be assumed that, unless the contrary is shown, the provision of a lump sum is not attributable to the payment of such a sum as is mentioned in that subsection.

394B Pre-December 1993 schemes: relationship between this Chapter and Part 2

- (1) This section applies if, apart from this section, the provision of a benefit to which this Chapter applies would give rise to two amounts (“A” and “B”)—
- (a) A being an amount of general earnings from an employment (see section 7), and
 - (b) B being an amount which is to count as employment income of an individual by virtue of section 394(1).
- (2) In such a case—
- (a) A constitutes general earnings from the employment, and
 - (b) the amount, if any, by which B exceeds A is to count as employment income of the individual by virtue of section 394(1).”

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Payments and benefits on termination of employment etc.

- 42 Section 403 (charge on payment or other benefit) does not apply in relation to payments or other benefits received on or after 6th April 2003 that were brought into charge to tax before 6th April 1998.
- 43 (1) This paragraph applies for the purpose of determining how the £30,000 threshold referred to in sections 403 and 404 operates where—
- (a) payments or other benefits to which Chapter 3 of Part 6 apply are received, and
 - (b) payments or benefits to which section 148 of ICTA applied were received in respect of the same person—
 - (i) in respect of the same employment, or
 - (ii) in respect of different employments with the same employer or associated employers.
- (2) For the purposes of section 403(4) and (5), section 415 (valuation of benefits) does not apply to the payments and benefits referred to in sub-paragraph (1)(b), and their aggregate amount is to be taken to be their aggregate amount immediately before 6th April 2003.
- (3) The references in sections 403(4) and (5) and 404(3)(b) to payments or benefits to which Chapter 3 of Part 6 applies include references to the payments and benefits referred to in sub-paragraph (1)(b).
- (4) Section 404(2) (when employers are associated) applies for the purposes of this paragraph.

PART 7

EMPLOYMENT INCOME: [^{F5}INCOME RELATED TO SECURITIES]

Textual Amendments

F5 Words in Sch. 7 Pt. 7 heading substituted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(4\)](#)

[^{F6}Pre-6th April 2003 acquisitions]

Textual Amendments

F6 Sch. 7 para. 43A and cross-heading inserted (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(5\)\(26\)\(b\)](#)

- 43A (1) This paragraph relates to the operation of section 421E (exclusions from Chapters 2 to 4 of Part 7: residence) in relation to an acquisition made before 6th April 2003.
- (2) Section 421E(1) has effect with the substitution of “the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.

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(3) Section 421E(2) has effect with the substitution of “ the emoluments of the employment did not fall to be charged to income tax under Schedule E ” for the words from “the earnings”.]

Conditional interests in shares

44 Chapter 2 of Part 7 [^{F7}, as originally enacted,] does not apply in relation to interests acquired before 17th March 1998.

Textual Amendments

F7 Words in Sch. 7 para. 44 inserted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(6\)\(26\)\(c\)](#); [S.I. 2003/1997](#), art. 2

45 (1) This paragraph relates to the operation of section 425 (cases where Chapter 2 of Part 7 does not apply) [^{F8}, as originally enacted.]

(2) Section 425(1) applies in relation to any acquisition made before 6th April 2003 with the substitution of “if the person was not chargeable under Case I of Schedule E in respect of the office or employment in question” for the words from “if the earnings” onwards.

Textual Amendments

F8 Words in Sch. 7 para. 45(1) inserted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(7\)\(26\)\(c\)](#); [S.I. 2003/1997](#), art. 2

46 (1) This paragraph relates to the operation of section 428 (amount of charge where interest in shares ceases to be only conditional or on disposal) [^{F9}, as originally enacted,] in relation to an acquisition made before 6th April 2003.

(2) For the purposes of section 428(1) each of the following is a “deductible amount”—

- (a) any amounts on which the employee has become chargeable to tax under Schedule E in respect of the acquisition of the employee’s interest; and
- (b) any amount on which the employee has become chargeable to tax in respect of the shares under section 78 or 79 of FA 1988 (unapproved employee share schemes) by reference to an event that occurred before 6th April 2003.

Textual Amendments

F9 Words in Sch. 7 para. 46(1) inserted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(8\)\(26\)\(c\)](#); [S.I. 2003/1997](#), art. 2

^{F10}47

Textual Amendments

F10 Sch. 7 para. 47 repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(9\)](#), [Sch. 43 Pt. 3\(4\)](#)

^{F11}48

Status: Point in time view as at 18/04/2005.
Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

Textual Amendments

F11 Sch. 7 para. 48 repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(9), Sch. 43 Pt. 3(4)

Convertible shares

49 Chapter 3 of Part 7 does not apply in relation to [^{F12}securities] acquired before 17th March 1998.

Textual Amendments

F12 Word in Sch. 7 para. 49 substituted (1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(10)(26)(c); S.I. 2003/1997, art. 2

^{F13}50

Textual Amendments

F13 Sch. 7 paras. 50-52 repealed (1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(11)(26)(c), Sch. 43 Pt. 3(4); S.I. 2003/1997, art. 2

^{F13}51

Textual Amendments

F13 Sch. 7 paras. 50-52 repealed (1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(11)(26)(c), Sch. 43 Pt. 3(4); S.I. 2003/1997, art. 2

^{F13}52

Textual Amendments

F13 Sch. 7 paras. 50-52 repealed (1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(11)(26)(c), Sch. 43 Pt. 3(4); S.I. 2003/1997, art. 2

^{F14}53

Textual Amendments

F14 Sch. 7 para. 53 repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(12), Sch. 43 Pt. 3(4)

Post-acquisition benefits from shares

54 Chapter 4 of Part 7 [^{F15}, both as originally enacted and as substituted by the Finance Act 2003,] does not apply in relation to shares or an interest in shares acquired before 26th October 1987, except to the extent provided by paragraph 55 (read with paragraph 56).

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

Textual Amendments

F15 Words in Sch. 7 para. 54 inserted (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(13\)\(26\)\(b\)](#)

55 (1) Chapter 4 of Part 7 [^{F16}, as originally enacted,] applies in relation to shares or an interest in shares acquired before 26th October 1987 if the company was not a dependent subsidiary on that date.

(2) But it so applies—

^{F17}(a)

(b) subject to paragraph 56.

Textual Amendments

F16 Words in Sch. 7 para. 55 inserted (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(14\)\(a\)\(26\)\(b\)](#)

F17 Sch. 7 para. 55(2)(a) repealed (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(14\)\(b\)\(26\)\(b\)](#), [Sch. 43 Pt. 3\(4\)](#)

56 The removal or variation of a restriction applying to shares or an interest in shares acquired before 26th October 1987 is not a chargeable event for the purposes of section 449 [^{F18}, as originally enacted,] if paragraph 7 of Schedule 8 to FA 1973 (requirement for disposal to nominees at price not exceeding market value on termination of employment) would have applied to it.

Textual Amendments

F18 Words in Sch. 7 para. 56 inserted (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(15\)\(26\)\(b\)](#)

57 Despite the repeals made by this Act—

(a) sections 138 and 139 of ICTA (share acquisitions by directors and employees), and

(b) section 140 of ICTA (further interpretation) as it applies for the purposes of those sections,

continue to apply in relation to shares or interests in shares acquired before 26th October 1987.

58 (1) This paragraph relates to the operation of section 448 (cases where Chapter 4 of Part 7 does not apply) [^{F19}, as originally enacted].

(2) Section 448(1) applies in relation to any acquisition made before 6th April 2003 with the substitution of “if the person was not chargeable under Case I of Schedule E in respect of the office or employment in question” for the words “if the earnings” onwards.

(3) Section 448(3) and (4) do not apply in relation to any acquisition made before 16th January 1991.

Textual Amendments

F19 Words in Sch. 7 para. 58(1) inserted (16.4.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(16\)\(26\)\(b\)](#)

Status: Point in time view as at 18/04/2005.
Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

F2059

Textual Amendments
F20 Sch. 7 para. 59 repealed (16.4.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(17)(26)(b), Sch. 43 Pt. 3(4)

F2160

Textual Amendments
F21 Sch. 7 para. 60 repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(18), Sch. 43 Pt. 3(4)

F2261

Textual Amendments
F22 Sch. 7 para. 61 repealed (10.7.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(18), Sch. 43 Pt. 3(4)

[F23Securities disposed of for more than market value

Textual Amendments
F23 Sch. 7 para. 61A and cross-heading inserted (with effect in accordance with Sch. 22 para. 46(26)(a) of the amending Act) by Finance Act 2003 (c. 14), Sch. 22 para. 46(19)

61A Chapter 3D of Part 7 does not apply in relation to securities, or an interest in securities, acquired on or before 6th April 1976.]

Share options

F2462

Textual Amendments
F24 Sch. 7 para. 62 repealed (1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(20)(26)(c), Sch. 43 Pt. 3(4); S.I. 2003/1997, art. 2

[F2563 (1) This paragraph relates to the operation of section 474 (exclusions from Chapter 5 of Part 7: residence) in relation to an acquisition made before 6th April 2003.
(2) Section 474(1) has effect with the substitution of “ the employee was not chargeable under Case I of Schedule E in respect of the employment ” for the words from “the earnings”.]

Textual Amendments
F25 Sch. 7 para. 63 substituted (16.4.2003 for specified purposes, otherwise 1.9.2003) by Finance Act 2003 (c. 14), Sch. 22 para. 46(21)(26)(d); S.I. 2003/1997, art. 2

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

- 64 (1) This paragraph relates to the operation of section 478 (amount of charges) in relation to a [^{F26}securities] option [^{F27}acquired] before 6th April 2003.
- (2) For the purposes of section 478(1), any amount charged to tax under Schedule E in respect of the [^{F28}acquisition] of the [^{F26}securities] option is a deductible amount.

Textual Amendments

- F26** Word in Sch. 7 para. 64 substituted (16.4.2003 for specified purposes, otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(22\)\(a\)\(26\)\(d\)](#); S.I. 2003/1997, art. 2
- F27** Word in Sch. 7 para. 64 substituted (16.4.2003 for specified purposes, otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(22\)\(b\)\(26\)\(d\)](#); S.I. 2003/1997, art. 2
- F28** Word in Sch. 7 para. 64 substituted (16.4.2003 for specified purposes, otherwise 1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(22\)\(c\)\(26\)\(d\)](#); S.I. 2003/1997, art. 2

- 65 (1) This paragraph relates to the operation of section [^{F29}478 in relation to an event that is a chargeable event by virtue of section 477(3)(a) or (b) (acquisition of securities pursuant to an option and assignment and release of option) in the case of a share option acquired] before 6th April 2003.
- (2) For the purposes of section [^{F30}478(1)], if an amount was chargeable to tax under section 185(6) of ICTA (charge where option under approved share option scheme granted at a discount) in respect of the share option, so much of that amount as is attributable to the shares in question is a deductible [^{F30}amount].

Textual Amendments

- F29** Words in Sch. 7 para. 65(1) substituted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(23\)\(a\)\(26\)\(c\)](#); S.I. 2003/1997, art. 2
- F30** Word in Sch. 7 para. 65(2) substituted (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(23\)\(b\)\(26\)\(c\)](#); S.I. 2003/1997, art. 2

^{F31}66

Textual Amendments

- F31** Sch. 7 para. 66 repealed (1.9.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(24\)\(26\)\(c\)](#), [Sch. 43 Pt. 3\(4\)](#); S.I. 2003/1997, art. 2

^{F32}67

Textual Amendments

- F32** Sch. 7 para. 67 repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 46\(25\)](#), [Sch. 43 Pt. 3\(4\)](#)

Approved share incentive plans

- 68 (1) This paragraph applies where, immediately before 6th April 2003, an employee share ownership plan was approved under Schedule 8 to FA 2000 (employee share ownership plans).

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

- (2) On and after that date the plan is to be treated as a share incentive plan (or “SIP”) approved by [^{F33}an officer of Revenue and Customs] under Schedule 2 to this Act.
- (3) Sub-paragraph (2) has effect even if the provisions of the plan do not wholly conform with the provisions of Schedule 2 to this Act, but it has effect without prejudice to—
 - (a) paragraphs 83 and 84 of that Schedule (withdrawal of approval),
 - (b) paragraphs 89 and 90 of that Schedule (termination of plan), and
 - (c) any alteration of the plan.
- (4) For the purposes of paragraph 84(1)(a) of Schedule 2, as it applies to the plan, nothing is to be regarded as a disqualifying event because of a contravention of any of the requirements of that Schedule if the requirement in question does not correspond to any of the requirements of Schedule 8 to FA 2000.
- (5) Nothing in this Act affects the validity of—
 - (a) any provision of the plan which was included in it at any time before 6th April 2003 in accordance with the provisions of Schedule 8 to FA 2000 as then in force, or
 - (b) any award of shares under the plan which was made at any such time in accordance with the provisions of that Schedule as then in force.
- (6) In this paragraph—

“award of shares” means the appropriation of shares to, or the acquisition of shares on behalf of, a person;

“employee share ownership plan” has the meaning given by paragraph 1(1) of Schedule 8 to FA 2000.

Textual Amendments

F33 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

- 69 (1) Any reference in any enactment, instrument or document—
 - (a) to an employee share ownership plan, or
 - (b) to an employee share ownership plan approved under Schedule 8 to FA 2000,
 is to be read as including, in relation to times after 5th April 2003, a reference to a share incentive plan or to a share incentive plan approved under Schedule 2 to this Act.
- (2) Any reference in any enactment, instrument or document—
 - (a) to a share incentive plan (or SIP), or
 - (b) to a share incentive plan (or SIP) approved under Schedule 2 to this Act,
 is to be read as including, in relation to times before 6th April 2003, a reference to an employee share ownership plan or to an employee share ownership plan approved under Schedule 8 to FA 2000.
- (3) Accordingly any reference in the SIP code to shares awarded under an approved SIP is to be read as including, in relation to times before 6th April 2003, a reference to shares awarded under a plan approved under Schedule 8 to FA 2000.
- (4) Any reference in a plan within paragraph 68(1) to a person chargeable to tax under Case I of Schedule E is to be read as including, in relation to times after 5th April

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2003, a reference to a person whose earnings fall within paragraph 8(2) of Schedule 2 to this Act.

(5) This paragraph—

- (a) is without prejudice to Part 1 of this Schedule, and
- (b) applies only in so far as the context permits.

(6) In this paragraph—

“awarded” means appropriated to, or acquired on behalf of, a person;

“employee share ownership plan” has the same meaning as in paragraph 68.

70 Nothing in paragraph 91(4) of Schedule 2 to this Act (jointly owned companies) prevents a company being a constituent company in a group plan (within the meaning of that Schedule) if it was a participating company in that plan (within the meaning of Schedule 8 to FA 2000) immediately before 24th July 2002.

Approved SAYE option schemes

71 (1) This paragraph applies where, immediately before 6th April 2003, a savings-related share option scheme was approved under Schedule 9 to ICTA (approved share option schemes and profit-sharing schemes).

(2) On and after that date the scheme is to be treated as an SAYE option scheme approved by [^{F33}an officer of Revenue and Customs] under Schedule 3 to this Act.

(3) Sub-paragraph (2) has effect even if the provisions of the scheme do not wholly conform with the provisions of Schedule 3 to this Act, but it has effect without prejudice to—

- (a) paragraphs 42 and 43 of that Schedule (withdrawal or loss of approval), and
- (b) any approved alteration of the scheme.

(4) For the purposes of paragraph 42 of Schedule 3, as it applies to the scheme, nothing is to be regarded as a disqualifying event if it would not have resulted in any of the former approval requirements ceasing to be met.

The “former approval requirements” means the requirements of Schedule 9 to ICTA by reference to which the scheme was approved.

(5) Nothing in this Act affects the validity of—

- (a) any provision of the scheme which was included in it at any time before 6th April 2003 in accordance with the provisions of Schedule 9 to ICTA as then in force, or
- (b) any rights obtained under the scheme which were obtained at any such time in accordance with the provisions of that Schedule as then in force.

(6) In this paragraph “savings-related share option scheme” has the meaning given by paragraph 1(1) of Schedule 9 to ICTA.

Textual Amendments

F33 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

- 72 (1) Any reference in the SAYE code to a share option granted in accordance with the provisions of an approved SAYE option scheme is to be read as including, in relation to times before 6th April 2003, a reference to a right to acquire shares obtained in accordance with the provisions of a savings-related share option scheme approved under Schedule 9 to ICTA.
- (2) Any reference in a scheme within paragraph 71(1) to a person chargeable to tax under Case I of Schedule E is to be read as including, in relation to times after 5th April 2003, a reference to a person whose earnings fall within paragraph 6(2)(c) of Schedule 3 to this Act.
- (3) This paragraph—
- (a) is without prejudice to Part 1 of this Schedule, and
 - (b) applies only in so far as the context permits.
- (4) In this paragraph “savings-related share option scheme” has the same meaning as in paragraph 71.

Approved CSOP schemes

- 73 (1) This paragraph applies where, immediately before 6th April 2003, a discretionary share option scheme was approved under Schedule 9 to ICTA (approved share option schemes and profit-sharing schemes).
- (2) On and after that date the scheme is to be treated as a CSOP scheme approved by [F33an officer of Revenue and Customs] under Schedule 4 to this Act.
- (3) Sub-paragraph (2) has effect even if the provisions of the scheme do not wholly conform with the provisions of Schedule 4 to this Act, but they are without prejudice to—
- (a) paragraphs 30 and 31 of that Schedule (withdrawal or loss of approval), and
 - (b) any approved alteration of the scheme.
- (4) For the purposes of paragraph 30 of Schedule 4, as it applies to the scheme, nothing is to be regarded as a disqualifying event if it would not have resulted in any of the former approval requirements ceasing to be met.
- The “former approval requirements” means the requirements of Schedule 9 to ICTA by reference to which the scheme was approved.
- (5) Nothing in this Act affects the validity of—
- (a) any provision of the scheme which was included in it at any time before 6th April 2003 in accordance with the provisions of Schedule 9 to ICTA as then in force, or
 - (b) any rights obtained under the scheme which were obtained at any such time in accordance with the provisions of that Schedule as then in force.
- (6) In this paragraph “discretionary share option scheme” means a share option scheme other than a savings-related share option scheme (as defined by paragraph 1(1) of Schedule 9 to ICTA).

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

Textual Amendments

F33 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

- 74 (1) Any reference in the CSOP code to a share option granted in accordance with the provisions of an approved CSOP scheme is to be read as including, in relation to times before 6th April 2003, a reference to a right to acquire shares obtained in accordance with the provisions of a discretionary share option scheme approved under Schedule 9 to ICTA.
- (2) This paragraph—
- (a) is without prejudice to Part 1 of this Schedule,
 - (b) applies only in so far as the context permits, and
 - (c) has effect subject to paragraph 75.
- (3) In this paragraph “discretionary share option scheme” has the same meaning as in paragraph 73.
- 75 (1) This paragraph has effect where, immediately before 6th April 2003, a discretionary share option scheme which was approved before 29th April 1996—
- (a) is approved under Schedule 9 to ICTA, and
 - (b) has effect subject to the modifications made by paragraphs 2 and 3 of Schedule 16 to FA 1996 (scheme to have effect, despite anything included in it to the contrary, as if it contained provisions required by paragraphs 28 and 29 of Schedule 9 to ICTA: limit of £30,000 on value of shares subject to outstanding options and requirements as to price for acquisition of shares).
- (2) On and after 6th April 2003 the scheme is to continue to have effect as if it provided—
- (a) that an individual may not be granted share options under it which would at the time when they are granted cause the aggregate market value of the shares which the individual may acquire by exercising share options granted under—
 - (i) the scheme, or
 - (ii) any other approved CSOP scheme established by the scheme organiser or an associated company of the scheme organiser,to exceed or further exceed £30,000 (leaving out of account share options that have already been exercised), and
 - (b) that the price at which shares may be acquired by the exercise of a share option granted under the scheme must not be manifestly less than the market value of shares of the same class at that time (or, if ^{F34}the Commissioners for Her Majesty’s Revenue and Customs] and the scheme organiser agree in writing, at an earlier time or times stated in the agreement).
- (3) For the purposes of sub-paragraph (2)(a), the market value of shares is to be calculated as at—
- (a) the time when the options relating to them were granted, or
 - (b) if an agreement relating to them has been made under paragraph 22 of Schedule 4 (requirements as to price for acquisition of shares) the earlier time or times stated in the agreement.

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- (4) Sub-paragraph (2) is subject to any amendment to the scheme made after 28th April 1996 (whether before or after 6th April 2003).
- (5) In this paragraph “discretionary share option scheme” has the same meaning as in paragraph 73.
- (6) Other expressions used in this paragraph and contained in the index at the end of Schedule 4 (index of expressions defined in the CSOP code) have the meaning indicated by that index.

Textual Amendments

F34 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

- 76 (1) This paragraph applies to any right obtained by an individual—
- (a) under a discretionary share option scheme approved under Schedule 9 to ICTA, and
 - (b) during the period beginning with 17th July 1995 and ending with 28th April 1996,
- if, by virtue of section 115 of FA 1996 (transitional provisions which gave retrospective effect to certain amendments relating to discretionary share option schemes), the right was, immediately before 6th April 2003, treated for the purposes of sections 185 to 187 of and Schedule 9 to ICTA as having been obtained otherwise than in accordance with the provisions of a discretionary share option scheme approved under that Schedule.
- (2) For the purposes of the CSOP code, the right is to be treated as having been granted otherwise than in accordance with the provisions of an approved CSOP scheme.
 - (3) In this paragraph “discretionary share option scheme” has the same meaning as in paragraph 73.

Enterprise management incentives

- 77 (1) This paragraph applies where, immediately before 6th April 2003, a share option was a qualifying option for the purposes of Schedule 14 to FA 2000 (enterprise management incentives).
- (2) On and after that date the share option is to be treated as a qualifying option for the purposes of the EMI code.
 - (3) Sub-paragraph (2) has effect even if the requirements that had to be met in order for the share option, or any share option replaced by it, to be a qualifying option for the purposes of Schedule 14 to FA 2000 differed to any extent from those set out in Schedule 5.
 - (4) In this paragraph “share option” means a right to acquire shares.
- 78 (1) In section 535 (disqualifying events relating to employee), subsections (2) to (6) apply to the tax year 2003-04 and later tax years (in accordance with section 723(1)).
- (2) In Schedule 14 to FA 2000 (enterprise management incentives), paragraph 52 (disqualifying events: actual relevant working time) continues to apply in relation to

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Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

April 2003 for the purpose of calculating, in accordance with sub-paragraphs (3) to (5) of that paragraph, whether a disqualifying event is to be taken to have occurred at the end of the tax year 2002-03.

- (3) If a disqualifying event is to be taken to have so occurred, it (like anything else which under that Schedule is a disqualifying event immediately before 6th April 2003) is a disqualifying event for the purposes of Schedule 5 to this Act.
- 79 (1) Section 536 (other disqualifying events) has effect in relation to any alteration made to the share capital of a company before 11th May 2001 with the following modification.
- (2) In subsection (1), for paragraphs (b) and (c) substitute—
- “(b) any alteration to the share capital of the relevant company to which section 537 applies and is made without the prior approval of [^{F33}an officer of Revenue and Customs] ;”.

Textual Amendments

F33 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

- 80 (1) Section 537 (alteration of share capital for purposes of section 536) has effect in relation to any alteration made to the share capital of a company before 11th May 2001 with the following modifications.
- (2) In subsection (1), omit “and (c)”.
- (3) In subsection (2), substitute “ This section ” for “This subsection”.
- (4) Omit subsection (3).
- 81 In a case where the qualifying option was granted before 6th April 2003, section 540(2) (no charge on acquisition of shares as taxable benefit) applies in relation to the time when the option was granted with the substitution of “the employee was chargeable to tax under Case I of Schedule E” for the words from “the earnings” onwards.
- 82 (1) This paragraph relates to the operation of section 541(2) (effects on tax charges where shares cease to be conditional only or are converted) in relation to an FA 2000 option which was exercised before 6th April 2003.
- (2) The references to a qualifying option include an FA 2000 option which was so exercised; but in relation to such an option sub-paragraph (3) applies instead of section 541(3).
- (3) For the purposes of section 541(2) “the amount of relief on the exercise of the option” means the difference between—
- (a) the amount on which tax would have been chargeable under section 135 of ICTA (charge on exercise etc. of option) in respect of the exercise of the option apart from Schedule 14 to FA 2000 (enterprise management incentives), and
- (b) the amount (if any) in fact so chargeable in accordance with that Schedule.
- (4) In this paragraph an “FA 2000 option” means a qualifying option for the purposes of Schedule 14 to FA 2000.

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- 83 In Schedule 5 (enterprise management incentives), paragraph 41(6) (like other provisions of that paragraph) applies to replacement options whenever granted.

Employee benefit trusts

- 84 In relation to times before 6th April 2003, section 549(5) (definition of “employee” for purposes of Chapter 11 of Part 7) is to be read as referring to a person holding an office or employment whose emoluments were chargeable under Schedule E.

PART 8

APPROVED PROFIT SHARING SCHEMES

Trustees' duty to provide information

- 85 Any obligation imposed in accordance with paragraph 34(b) of Schedule 9 to ICTA (trustees' duties to provide information) on the trustees of a profit sharing scheme approved under that Schedule is to be construed as an obligation, where an amount counts as employment income of a participant by reason of the occurrence of any event, to inform the participant of any facts relevant to determining the participant's resulting liability to tax.

Share incentive plans

- 86 (1) Where the trustees of an approved share incentive plan acquire shares from the trustees of an approved profit sharing scheme, the disposal and the acquisition by the trustees are treated for capital gains tax purposes as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal.
- (2) In such a case the relevant period for the purposes of paragraph 2 of Schedule 7D to TCGA 1992 is determined as if the shares had been acquired by the trustees of the share incentive plan at the time they were acquired by the trustees of the other trust.

This does not affect the date on which the trustees of the share incentive plan are treated as acquiring the shares for the purposes of taper relief.

- (3) In this paragraph—
“approved profit sharing scheme” means a profit sharing scheme approved under Schedule 9 to ICTA, and
“approved share incentive plan” means a share incentive plan approved under Schedule 2 to this Act.

Other share schemes: eligibility of individuals and material interests

- 87 (1) In applying any of the provisions specified in sub-paragraph (2) (which deal with the meaning of “material interest” for the purpose of determining eligibility to participate in share schemes, etc.) the following are to be disregarded—
- (a) the interest of the trustees of any profit sharing scheme approved under Schedule 9 to ICTA in any shares which are held by them in accordance with the plan but which have not been appropriated to an individual, and
 - (b) any rights exercisable by the trustees as a result of that interest.

Status: Point in time view as at 18/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)

- (2) The provisions referred to in sub-paragraph (1) are—
- (a) paragraph 20 of Schedule 2 (approved share incentive plans);
 - (b) paragraph 12 of Schedule 3 (approved SAYE option schemes);
 - (c) paragraph 10 of Schedule 4 (approved CSOP schemes);
 - (d) paragraph 29 of Schedule 5 (enterprise management incentives).

PART 9

SOCIAL SECURITY INCOME

Disabled person's and working families' tax credits

- 88 (1) This paragraph applies if, on 6th April 2003, the repeals made by TCA 2002 of the provisions listed in sub-paragraph (3) have not come fully into force.
- (2) Until the repeal of those provisions has come fully into force, Table B in section 677(1) of this Act is to be read as if it included references to disabled person's tax credit and working families' tax credit.
- (3) The provisions referred to in this paragraph are—
- (a) in SSCBA 1992, section 128 (working families' tax credit) and section 129 (disabled person's tax credit), and
 - (b) in SSCB(NI)A 1992, section 127 (working families' tax credit) and section 128 (disabled person's tax credit).

PART 10

PAYE

PAYE regulations

- 89 (1) In relation to any time before the commencement of the repeals in Part 7 of Schedule 20 to FA 1999, section 684(2) (PAYE regulations) has effect with the following modification.
- (2) At the end of item 5 insert “ including the proving of the contents or transmission of anything that the regulations allow to be transmitted to any person in electronic form or by electronic means ”.

PART 11

CONSEQUENCES FOR CORPORATION TAX

- 90 (1) This paragraph applies where—
- (a) a company is charged to corporation tax by reference to an accounting period which begins before and ends on or after 6th April 2003, and
 - (b) because of a change in the law made by this Act, the income tax law relating to the accounting period is different from what it would have been if that change had not been made.

*Status: Point in time view as at 18/04/2005.**Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7. (See end of Document for details)*

- (2) If the company so elects, this Act applies with such modifications as may be necessary to secure that the income tax law relating to the accounting period is the same as it would have been if the change in the law had not been made.
- (3) An election under this paragraph must be made by notice given to [^{F33}an officer of Revenue and Customs] no later than the end of the period of two years beginning with the day following the last day of the accounting period.
- (4) In this paragraph “income tax law” has the same meaning as in section 9 of ICTA.

Textual Amendments

F33 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

- 91 (1) This paragraph applies in relation to corporation tax charged by reference to an accounting period which begins before and ends on or after 6th April 2003.
- (2) In its application for the purposes of corporation tax, any provision of this Schedule is to be read as if—
 - (a) any reference to the tax year 2003-04 were a reference to that accounting period, and
 - (b) any reference to 6th April 2003 were a reference to the first day of that accounting period.
- 92 (1) The provisions of this Act mentioned in sub-paragraph (2) do not have effect for corporation tax purposes for so much of any accounting period as falls before 6th April 2003.
- (2) The provisions are—
 - (a) in Schedule 6 (consequential amendments)—
 - (i) paragraph 11 (which replaces references in section 84A of ICTA to share option schemes approved under Schedule 9 to that Act with references to SAYE option schemes and CSOP schemes approved under this Act), and
 - (ii) paragraphs 12 and 109 (which insert Schedule 4AA to ICTA (share incentive plans: corporation tax deductions)), and
 - (b) the repeal by Schedule 8 (repeals) of—
 - (i) Part 12 of Schedule 8 to FA 2000 (corporation tax deductions in relation to employee share option plans), and
 - (ii) so much of any other provision of Schedule 8 to that Act as is necessary for the operation of Part 12.
- (3) This paragraph has effect as an exception to the provision made by section 723(1)(b) (commencement of this Act for purposes of corporation tax).

Status:

Point in time view as at 18/04/2005.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, SCHEDULE 7.