

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14: Remediation of contaminated land

Overview

Chapter 6: Supplementary

Section 1170: “Staffing costs”

2983. This section gives the meaning of staffing costs. It is based on paragraph 5 of Schedule 22 to FA 2001. That paragraph uses the term “employee costs”, but in rewriting the source legislation it was felt that the term “staffing costs”, which is the term used for the equivalent purpose in Part 13 of the Act, was more appropriate.
2984. Paragraph 5(1)(a) of Schedule 22 to FA 2001 refers to “emoluments paid by the company ... including all salaries, wages, perquisites and profits whatsoever other than benefits in kind”. This is based on the definition of emoluments that section 131 of ICTA applied for Schedule E before that Schedule was rewritten by ITEPA.
2985. ITEPA amended paragraph 5 of Schedule 20 to FA 2000 so that it referred to earnings which constitute employment income. In doing so it inadvertently expanded the definition to include benefits in kind. This change was reversed by paragraph 7 of Schedule 17 to FA 2004, which reinstated the original wording.
2986. In rewriting Schedule 22 to FA 2001 it was decided that the language and format of the definition should be adapted so that the definition applies more clearly from the position of the company making the payment rather than the employee receiving it. Hence the reference to money earnings and reimbursed expenses.
2987. *Subsection (2)* rewrites the reference to salaries and wages by reference to money earnings. *Subsection (3)* rewrites the reference to perquisites and profits by reference to reimbursed expenses. See *Change 79* in Annex 1.
2988. Paragraph 5(1)(c) of Schedule 22 to FA 2001 refers to “contributions paid by the company to any pension fund (within the meaning of section 231A(4) of [ICTA])”. Section 231A of ICTA was repealed by F(No 2)A 1997 with effect for distributions made on or after 6 April 1999. But a consequential amendment was not made to paragraph 5 of Schedule 22 so as to set out in full the definition of “pension fund”.
2989. The parallel definition in paragraph 5(1)(c) of Schedule 20 to FA 2000 also used to refer to section 231A(4) of ICTA. It was amended by paragraph 3 of Schedule 15 to FA 2002. The wording of the definition is the same but it is now free-standing. *Subsection (6)* provides a freestanding definition of “pension fund” that reflects the definition used in paragraph 5(1A) of Schedule 20 to FA 2000.

Section 1171: Staffing costs attributable to relevant land remediation

2990. This section identifies when staffing costs are attributable to relevant land remediation. It is based on paragraph 5 of Schedule 22 to FA 2001.

Section 1172: Expenditure on materials

2991. This section outlines whether expenditure on materials is attributable to land remediation. It is based on paragraph 6 of Schedule 22 to FA 2001.

Section 1173: Expenditure incurred because of contamination

2992. This section identifies two specific circumstances in which condition B in section 1144 – the condition that expenditure on contaminated land would not have been incurred if the land had not been in a contaminated state - is treated as met. It is based on paragraph 7 of Schedule 22 to FA 2001.

Section 1174: Sub-contractor payments

2993. This section defines “sub-contractor payment” and is the first of three sections that deal with such payments. It is based on paragraph 9 of Schedule 22 to FA 2001.

Section 1175: “Qualifying expenditure on sub-contracted land remediation”: connected persons

2994. This section identifies the amount of qualifying expenditure on sub-contracted land remediation if the parties are connected. It is based on paragraph 10 of Schedule 22 to FA 2001.

Section 1176: “Qualifying expenditure on sub-contracted land remediation”: other cases

2995. This section identifies the amount of qualifying expenditure on sub-contracted land remediation if the parties are not connected. It is based on paragraph 11 of Schedule 22 to FA 2001.

Section 1177: “Subsidised expenditure”

2996. This section defines “subsidised expenditure”. It is based on paragraph 8 of Schedule 22 to FA 2001.

Section 1178: Persons having a “relevant connection” to a company

2997. This section sets out when a person has a “relevant connection” to a company for the purposes of the Part. It is based on paragraph 31 of Schedule 22 to FA 2001.

Section 1179: Other definitions

2998. This section provides definitions and is based on paragraph 31 of Schedule 22 to FA 2001.

2999. “National insurance contributions” is defined in section 1319.

3000. This Act does not rewrite paragraph 30 of Schedule 22 to FA 2001. This provision is no longer required, since the rule allowing the Commissioners for HMRC to deduct money for tax credits before paying their receipts into the Consolidated Fund is set out in sufficiently general terms in section 44 of CRCA (see subsections (1) and (3)(d) of that section). Paragraph 26 of Schedule 13 to FA 2002, which made similar provision to that made by paragraph 30 of Schedule 22 to FA 2001, was repealed by paragraph 96 of Schedule 4 to CRCA.