

SCHEDULE 1

Regulation 220

TRANSITIONAL PROVISIONS AND SAVINGS

PART 1

GENERAL PROVISIONS

*Continuity of the law*

1. The revocation of provisions and their making in a rewritten form in these Regulations does not affect the continuity of the law.

2. Paragraph 1 does not apply to any change in the law made by these Regulations.

3. Anything which—

(a) has been done, or has effect as if done, under or for the purposes of a provision of the revoked Regulations, and

(b) is in force or effective immediately before the commencement of these Regulations,

has effect after that commencement as if done under or for the purposes of the corresponding provision of these Regulations.

4. Any reference (express or implied) in these Regulations or any document made under these Regulations to—

(a) a provision of these Regulations, or

(b) things done or falling to be done under or for the purposes of a provision of these Regulations,

is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding provision of the revoked Regulations had effect, a reference to the provision of the revoked Regulations or to things done or falling to be done under or for the purposes of the provision of the revoked Regulations.

5. Any reference (express or implied) in these Regulations to relevant payments, relevant payments exceeding the PAYE threshold or similar concepts created by these Regulations is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding concept of the revoked Regulations had effect, a reference to the concept of the revoked Regulations.

6. Any reference (express or implied) in these Regulations to—

(a) a provision of ITEPA, or

(b) things done or falling to be done under or for the purposes of a provision of ITEPA,

is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding provision repealed by ITEPA had effect, a reference to the repealed provision or to things done or falling to be done under or for the purposes of the repealed provision.

7. Any reference (express or implied) in these Regulations to general earnings, PAYE income or similar concepts created by ITEPA is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding concept which has been superseded by ITEPA had effect, a reference to the superseded concept.

8. Paragraphs 4, 5, 6 and 7 apply only in so far as the context permits.

*Status: This is the original version (as it was originally made).*

9. Paragraph 5 is without prejudice to the generality of paragraph 4 and paragraph 7 is without prejudice to the generality of paragraph 6.

10. These Regulations have effect in relation to tax liable, under the Income Tax (Employments) Regulations 1993(1) or section 710 of ITEPA(2), to be deducted or accounted for in respect of payments made before 6th April 2004 as if the tax had been liable to be deducted or accounted for under these Regulations.

11. Paragraph 10 is without prejudice to the generality of paragraphs 1 to 9.

12. Paragraphs 1 to 11 have effect instead of paragraph (b) of section 17(2) of the Interpretation Act 1978(3).

#### *General saving for old savings*

13.—(1) The revocation by these Regulations of a provision previously revoked subject to savings does not affect the continued operation of those savings.

(2) The revocation by these Regulations of a saving on the previous revocation of a provision does not affect the operation of the saving in so far as it is not specifically reproduced in these Regulations but remains capable of having effect.

#### *Interpretation*

14. In this Part of this Schedule, “the revoked Regulations” means the Regulations which are revoked by these Regulations.

## PART 2

### SPECIFIC PROVISIONS

#### *Modification of reference to payment to the Inland Revenue in regulation 68(2)*

15. For the purposes of giving effect to any enactment or instrument which refers to an amount which is, or would in certain circumstances be, payable to the collector, paragraph (2) of regulation 68 has effect as if that paragraph required payment of the amount to which it refers to the collector.

#### *FPCS information for the tax year ending 5th April 2002: employees not covered by regulation 46(1) of 1993 Regulations*

16.—(1) This paragraph applies to a person (a “former FPCS employee”)—

(a) who was employed by an employer during a part of the tax year ending 5th April 2002, but who was no longer employed by that employer on 5th April 2002, and

(b) in respect of whom the employer—

(i) has provided information to the Inland Revenue under the FPCS arrangement for the tax year ending 5th April 2002, or

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(1) S.I. 1993/744; relevant amending instruments are S.I. 1993/2276, S.I. 1994/775, S.I. 1994/1212, S.I. 1995/447, S.I. 1995/853, S.I. 1995/1223, S.I. 1995/1284, S.I. 1996/804, S.I. 1996/980, S.I. 1996/1312, S.I. 1996/2381, S.I. 1996/2554, S.I. 1996/2631, S.I. 1997/214, S.I. 1998/1891, S.I. 1998/2484, S.I. 1999/70, S.I. 1999/2155, S.I. 2002/680, S.I. 2003/536, and S.I. 2003/2494.

(2) Section 710 of ITEPA was amended by section 145(6) of the Finance Act 2003 (c. 14).

(3) 1978 c. 30.

- (ii) has delivered information by an approved method of electronic communications to an official computer system under the FPCS arrangement for the tax year ending 5th April 2002, but
  - (c) in respect of whom no particulars were required to be provided by the employer under regulation 46(1) of the 1993 Regulations(4) for the tax year ending 5th April 2002.
- (2) The former FPCS employee may by notice require the employer to give a statement to the former FPCS employee containing—
- (a) particulars of the amount of the taxable profit, if any, for the tax year ending 5th April 2002 in respect of car allowances and motor mileage allowances paid to the former FPCS employee in the tax year ending 5th April 2002 for business travel, calculated by reference to the FPCS arrangement, or
  - (b) particulars of the total amount of the car allowances and motor mileage allowances paid to the former FPCS employee in the tax year ending 5th April 2002 for business travel, and the total amount of miles covered by the former FPCS employee in the tax year ending 5th April 2002 in the course of business travel for which the motor mileage allowances were paid.
- (3) The former FPCS employee may give the notice to the employer at any time before 6th April 2005.
- (4) The employer must give the statement to the former FPCS employee within 30 days of receiving the notice.
- (5) A former FPCS employee who has received the statement from the employer may not require a further statement from the employer in respect of the tax year ending 5th April 2002.
- (6) In this paragraph—
- “business travel” has the meaning given by section 168(5)(c) of ICTA(5) as that definition had effect for the tax year ending 5th April 2002 by virtue of regulation 46AA(6) of the 1993 Regulations(6);
  - “the FPCS arrangement” means the arrangement known as the Fixed Profit Car Scheme made between the employer and the Inland Revenue for providing information in respect of payments of car allowances and motor mileage allowances made to employees for business travel.
- (7) The reference in sub-paragraph (1)(b)(ii) to the delivery of information by an approved method of electronic communications to an official computer system includes, in relation to information which was delivered before the commencement of these Regulations, a reference to the delivery of information to an official computer system within the meaning of regulation 2(1) of the 1993 Regulations by a means of electronic communications approved for the purposes of regulation 46AA(3) of those Regulations.

*FPCS information for the tax year ending 5th April 2002: employees covered by regulation 46(1) of 1993 Regulations*

17.—(1) This paragraph applies to a former employee who would be a former FPCS employee were it not for the fact that the employer was required under regulation 46(1) of the 1993 Regulations to provide particulars in respect of the former employee for the tax year ending 5th April 2002.

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(4) Regulation 46 was substituted by regulation 4 of S.I. 1995/1284 and paragraph (1) was amended by regulation 15 of S.I. 1998/2484 and regulation 17(1) of S.I. 2001/1081.

(5) Section 168(5)(c) was substituted by section 62(4) of the Finance Act 1997 (c. 16) and repealed by paragraph 24 of Schedule 6 to ITEPA.

(6) Regulation 46AA was inserted by regulation 4 of S.I. 1995/1284.

*Status: This is the original version (as it was originally made).*

(2) If the former employee gives notice to the employer under paragraph (4) of regulation 94 requiring a statement relating to the tax year ending 5th April 2002, the statement must contain (in addition to the particulars mentioned in paragraph (2) of that regulation)—

(a) particulars of the amount of the taxable profit, if any, for the tax year ending 5th April 2002 in respect of car allowances and motor mileage allowances paid to the former employee in the tax year ending 5th April 2002 for business travel, calculated by reference to the FPCS arrangement, or

(b) particulars of the total amount of the car allowances and motor mileage allowances paid to the former employee in the tax year ending 5th April 2002 for business travel, and the total amount of miles covered by the former employee in the tax year ending 5th April 2002 in the course of business travel for which the motor mileage allowances were paid.

(3) “Former employee” has the same meaning as in regulation 94(7).

(4) Expressions used in this paragraph which are defined in paragraph 16 have the same meaning in this paragraph as in that paragraph.

*Due date for payments of tax in respect of tax periods ending before 6th April 2004*

**18.**—(1) The following provisions have effect with the following modifications in so far as the provisions apply in relation to tax periods ending before 6th April 2004.

(2) For sub-paragraphs (a) and (b) of regulation 69(1) (due date for payments of tax) substitute “within 14 days after the end of the tax period”.

(3) In regulation 77(1) (return and certificate if tax may be unpaid) for “17 days” substitute “14 days”.

(4) In regulation 78(1) (notice and certificate if tax may be unpaid) for “17 days” substitute “14 days”.

*Interest on unpaid tax: disapplication of regulation 82 for tax years before the tax year ending 5th April 1993*

**19.** Regulation 82 (interest on tax overdue) does not apply in relation to unpaid tax in respect of a tax year ending on or before 5th April 1992.

*Interest on unpaid tax: provisions applying to tax years before the tax year ending 5th April 1993*

**20.**—(1) This paragraph applies if the Inland Revenue make a determination under regulation 80 (determination of unpaid tax) which relates to tax payable for a tax year ending on or before 5th April 1992.

(2) This paragraph also applies if—

(a) the inspector, at any time after 19th April 1988, made a determination under regulation 49 of the 1993 Regulations (determination of tax payable by employer),

(b) the determination relates to tax payable for a tax year ending on or before 5th April 1992, and

(c) tax remains payable pursuant to the determination immediately before the commencement of these Regulations.

(3) The tax payable pursuant to the determination carries interest at the prescribed rate from the relevant start date until payment (“the interest period”).

(4) Sub-paragraph (3) applies even if the relevant start date is a non-business day as defined by section 92 of the Bills of Exchange Act 1882(7).

(5) Any change made to the prescribed rate during the interest period applies to the tax payable pursuant to the determination from the date of change.

(6) Regulation 84 (recovery of tax and interest) applies to an amount of interest which an employer is liable to pay under this paragraph as if it were the unpaid amount for the purposes of that regulation.

(7) Paragraphs (3) and (6) of regulation 218 (certificate of interest due) apply in relation to an amount which an employer is liable to pay under this paragraph as if this paragraph were a regulation included among those listed in paragraph (4) of that regulation.

(8) Regulation 219 (payment by cheque) applies for determining when a payment is made for the purposes of this paragraph as if this paragraph were included among the provisions listed in paragraph (2) of that regulation.

(9) In this paragraph—

“inspector” means an inspector of taxes;

“the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(8) for the purposes of section 86 of TMA;

“the relevant start date” means—

(a) in a case where the determination relates to tax payable for a tax year ending on or before 5th April 1988, 19th April 1988, and

(b) in a case where the determination relates to tax payable for a tax year ending after 5th April 1988 but on or before 5th April 1992, the 14th day after the end of the tax year to which the determination relates.

*Interest on tax overdue: application of regulation 82 to tax years from 1992-93 to 2003-04*

**21.**—(1) Regulation 82 (interest on tax overdue) has effect with the following modifications where the tax year in respect of which tax is unpaid is—

(a) the tax year ending 5th April 1993, or

(b) a tax year ending after 5th April 1993 but on or before 5th April 2004.

(2) In paragraph (1) for “the total net tax payable in respect of a tax year” substitute “the total net tax deductible by him in respect of all of his employees during a tax year”.

(3) In paragraph (4) for “a direction made under regulation 72(5) or 81(4)” substitute “a direction made under regulation 42(2) or (3) or 49(5) of the 1993 Regulations(9) or regulation 72(5) or 81(4) of these Regulations”.

(4) Omit paragraph (6).

(5) For paragraph (8) substitute—

“(8) The “reckonable date” means 14 days after the end of the tax year.”

(6) After that paragraph insert—

“(9) “The 1993 Regulations” means the Income Tax (Employments) Regulations 1993.”

(7) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(8) 1989 c. 26, to which there are amendments not relevant to these Regulations.

(9) Regulation 42(2) and (3) were amended by regulation 3 of S.I. 1995/447. Regulation 49(5) was amended by regulation 5 of S.I. 1995/447.

*Status: This is the original version (as it was originally made).*

*Interest on overpaid tax: disapplication of regulation 83 for tax years before the tax year ending 5th April 1997*

**22.** Regulation 83 (interest on overpaid tax) does not apply to tax which was paid by an employer in respect of a tax year ending on or before 5th April 1996.

*Interest on overpaid tax: provisions applying to tax years from 1992-93 to 1995-96*

**23.**—(1) This paragraph applies in relation to tax which—

- (a) was paid by an employer in respect of the tax year ending 5th April 1993 or in respect of a tax year ending after 5th April 1993 but on or before 5th April 1996, and
- (b) is repaid to the employer after the end of the tax year in respect of which the tax was paid.

(2) If the late repayment condition is met, the tax repaid carries interest at the prescribed rate from the relevant time until the order for the repayment is issued (“the interest period”).

(3) The late repayment condition is that the tax is repaid—

- (a) after the end of the tax year following the tax year in respect of which the tax was paid, and
- (b) after the end of the tax year in which the tax was paid.

(4) Any change made to the prescribed rate during the interest period applies to the tax repaid from the date of change.

(5) Regulation 219 (payment by cheque) applies for determining when a payment is made for the purposes of this paragraph as if this paragraph were included among the provisions listed in paragraph (2) of that regulation.

(6) In this paragraph—

“the prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of ICTA(10);

“the relevant time” means—

- (a) in a case where the tax was paid more than twelve months after the end of the tax year in respect of which the payment was made, the end of the tax year in which that tax was paid, and
- (b) in any other case, the end of the tax year after the tax year in respect of which the payment was made.

*Overpayments and underpayments of tax: tax years before the tax year ending 5th April 1997*

**24.**—(1) Despite the revocations made by these Regulations, regulation 101 of the 1993 Regulations(11) (repayment of overpayments and recovery of underpayments) continues to apply in relation to an assessment for a tax year ending on or before 5th April 1996, but with the modifications mentioned in sub-paragraph (2).

(2) The modifications are—

- (a) the references in paragraphs (1) and (2) of regulation 101 to the appropriate code for a subsequent year are to be read as references to the employee’s code for a subsequent tax year;

(10) Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988 (c. 39), sections 110(5), 111(4), 158(2) and 179(1) of, and Parts 4, 8 and 10 of Schedule 17 to, the Finance Act 1989 (c. 26), paragraph 14(52) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 41 of Schedule 19 to the Finance Act 1994 (c. 9), section 92 of the Finance Act 1997 (c. 16), section 41 of the Finance Act 1999 (c. 16), section 90 of the Finance Act 2001 (c. 9) and paragraph 104 of Schedule 6 to ITEPA.

(11) Regulation 101 was amended by regulation 7 of S.I. 1995/447 and regulation 14 of S.I. 1996/1312.

- (b) the references in paragraphs (1) and (2) of that regulation to the inspector and to the collector are to be read as references to the Inland Revenue;
  - (c) the reference in paragraph (6) of that regulation to a direction made by the collector under regulation 42(2) of the 1993 Regulations in relation to the employee and in respect of one or more income tax periods falling within the year is to be read as including a reference to a direction under regulation 72(5) of these Regulations in relation to that employee in respect of one or more tax periods falling within the tax year;
  - (d) the reference in that paragraph to a direction made by the Board under regulation 42(3) of the 1993 Regulations in relation to the employee and in respect of one or more income tax periods falling within the year is to be read as including a reference to a direction under regulation 72(5) of these Regulations in relation to that employee in respect of one or more tax periods falling within the tax year;
  - (e) the reference in that paragraph to a direction made by the Board under regulation 49(5) of the 1993 Regulations in relation to the employee and in respect of one or more income tax periods falling within the year is to be read as including a reference to a direction under regulation 81(4) of these Regulations in relation to that employee in respect of one or more tax periods falling within the tax year.
- (3) Any tax which is payable to the Inland Revenue under regulation 101(2) as it continues to have effect by virtue of this paragraph is payable within 14 days of the date on which the Inland Revenue first makes application for its payment.

*Overpayments and underpayments of tax: tax years before the tax year ending 5th April 2002*

- 25.**—(1) Regulation 188 (assessments other than self-assessments)—
- (a) does not apply in relation to an assessment for a tax year ending on or before 5th April 1996, and
  - (b) has effect in particular with the following modification in relation to an assessment, other than one under section 9 of TMA(12), for a tax year beginning on or after 6th April 1996 and ending on or before 5th April 2001.
- (2) In paragraph (3), after sub-paragraph (a) insert—
- “(aa) make any necessary adjustment to B in respect of any shortfall in deductions made in accordance with the Income Tax (Employments) Regulations 1993(13) from the employee, where—
    - (i) payments of profit-related pay have been made to the employee in accordance with a profit-related pay scheme registered under Chapter 3 of Part 5 of ICTA(14),
    - (ii) in consequence of the relief given by that Chapter less tax has been deducted from those payments than would have been deducted if the scheme had not been registered, and
    - (iii) the registration of the scheme has subsequently been cancelled with effect from a time before that relevant for the purposes of the relief;”.

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(12) Section 9 was substituted by section 179 of the Finance Act 1994 (c. 9), and amended by sections 104(4) and 115(2) of the Finance Act 1995 (c. 4), sections 121(4) and 122(1) of the Finance Act 1996 (c. 8), section 98(2) of the Finance Act 1998 (c. 36), paragraphs 1 and 2(1) of Schedule 29 to the Finance Act 2001 (c. 9) and paragraph 125(2) and (3) of Schedule 6 to ITEPA.

(13) S.I. 1993/744; relevant amending instruments are S.I. 1993/2276, S.I. 1994/775, S.I. 1994/1212, S.I. 1995/447, S.I. 1995/853, S.I. 1995/1223, S.I. 1995/1284, S.I. 1996/804, S.I. 1996/980, S.I. 1996/1312, S.I. 1996/2381, S.I. 1996/2554, S.I. 1996/2631, S.I. 1997/214, S.I. 1998/1891, S.I. 1998/2484, S.I. 1999/70, S.I. 1999/2155, S.I. 2002/680, S.I. 2003/536, and S.I. 2003/2494.

(14) Chapter 3 of Part 5 was repealed by Part 6(3) of Schedule 18 to the Finance Act 1997 (c. 16).

*Status: This is the original version (as it was originally made).*

*Attribution of repayments: tax years before the tax year ending 5th April 1997*

**26.**—(1) Despite the revocations made by these Regulations, regulations 106 to 108 of the 1993 Regulations (attribution of repayments) continue to apply in relation to a repayment to which section 824(5) of ICTA(15) applies for a tax year ending on or before 5th April 1996, but with the modification mentioned in sub-paragraph (2).

(2) The modification is that the reference to the collector in regulation 107(3) is to be read as including a reference to the Inland Revenue.

*Certificate that sum due: certificate of the collector*

**27.**—(1) A certificate of the collector that any amount shown in a certificate under the regulations listed in paragraph (2) of regulation 218 has not been paid by an employer to the collector or, to the best of the collector’s knowledge and belief, to any other collector or to any person acting on the collector’s behalf or on behalf of another collector is sufficient evidence that the amount mentioned in the collector’s certificate is unpaid and due to the Crown.

(2) A certificate of the collector that any amount of interest payable under the regulations listed in paragraph (4) of regulation 218 has not been paid by an employer or employee to the collector or, to the best of the collector’s knowledge and belief, to any other collector or to any person acting on the collector’s behalf or on behalf of another collector is sufficient evidence that the amount mentioned in the certificate is unpaid and due to the Crown.

(3) A document which purports to be a certificate of the collector under sub-paragraph (1) or (2) is treated as such a certificate until the contrary is proved.

*Interpretation*

**28.** In this Part of this Schedule—

“the 1993 Regulations” means the Income Tax (Employments) Regulations 1993;

“collector” means a collector of taxes.

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(15) Section 824(5) was amended by section 158(2) of the Finance Act 1989 (c. 26) and repealed, with savings, by paragraph 41 of Schedule 19 to the Finance Act 1994 (c. 9).