

SCHEDULES

SCHEDULE 21

Section 139

APPROVED SHARE PLANS AND SCHEMES

PART 1

SHARE INCENTIVE PLANS

Introductory

- 1 Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (approved share incentive plans) is amended as follows.

Participation in more than one connected plan in a tax year

- 2 After paragraph 18 insert—

“Participation in more than one connected SIP in a tax year

18A (1) The plan must provide that, if an individual participates in an award of shares under the plan in a tax year in which he has already participated in an award of shares under one or more other approved SIPs established by the company or a connected company—

- (a) paragraph 35 (maximum annual award of free shares),
- (b) paragraph 46 (maximum amount of partnership share money deductions), and
- (c) paragraph 64 (limit on amount reinvested),

apply as if the plan and the other plan or plans were a single plan.

(2) In this paragraph “connected company” has the same meaning as in paragraph 18.”.

- 3 In paragraph 13 (eligibility of individuals: introduction), for the entry relating to paragraph 18 substitute—

“paragraph 18 (requirement not to participate simultaneously in connected SIPs),

paragraph 18A (successive participation in connected SIPs), and”.

- 4 In paragraph 14(7) (eligibility to participate dependent on certain requirements of plan being met), for paragraph (b) substitute—

“(b) not participating simultaneously in connected SIPs (see paragraph 18),

(ba) successive participation in connected SIPs (see paragraph 18A), and”.

Status: This is the original version (as it was originally enacted).

5 In paragraph 18 (requirement not to participate in connected SIPs), omit sub-paragraph (1)(a) (successive participation in connected SIPs).

6 After paragraph 71 insert—

“Duty to monitor participants in connected schemes

71A The trust instrument must require the trustees to maintain records of participants who have participated in one or more other approved SIPs established by the company or a connected company.”.

Partnership shares

7 (1) Paragraph 46 (maximum amount of partnership share money deductions) is amended as follows.

(2) In sub-paragraph (1), for the words after “must not exceed” substitute “£1,500 in any tax year.”.

(3) In sub-paragraph (2), for the words after “an employee’s salary” substitute “for any tax year must not exceed 10% of the employee’s salary for the tax year.”.

(4) After that sub-paragraph insert—

“(4A) A limit lower than that specified in sub-paragraph (2) may be framed—

(a) as a proposition substituting a percentage lower than that so specified, or

(b) as a proposition that a particular description of earnings is not to be regarded as forming part of an employee’s salary for the purposes of that sub-paragraph.”.

(5) Sub-paragraphs (2) and (3) have effect for the year 2003-04 and subsequent years of assessment.

8 In paragraph 47 (minimum amount of deductions)—

(a) for “in any month” substitute “on any occasion”, and

(b) omit sub-paragraph (3).

PART 2

SAYE OPTION SCHEMES

Introductory

9 Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (approved SAYE option schemes) is amended as follows.

Minor correction

10 In paragraph 25(3)(a) (limit on contributions under CCS schemes linked to approved SAYE schemes), after “SAYE” insert “option”.

Exercise of options: scheme-related employment ends because of change of control or transfer

- 11 (1) Paragraph 34 (exercise of options: scheme-related employment ends) is amended as follows.
- (2) In sub-paragraph (2)(a), after “1996” insert “or ER(NI)O 1996”.
- (3) In sub-paragraph (5)—
- (a) for “provide that,” substitute “make provision about the time when the options may be exercised”, and
- (b) omit the words following paragraph (b).
- (4) After that sub-paragraph insert—
- “(5A) If the scheme makes provision by virtue of sub-paragraph (5), the provision must be either—
- (a) that the options may be exercised within 6 months after the termination date, or
- (b) that the options may be exercised within 6 months after the date (if any) when P ceases to hold the employment which (before the termination date) was the scheme-related employment for a reason within sub-paragraph (2)(a) or (b).”.

Alteration of schemes

- 12 (1) Paragraph 42 (withdrawal of approval) is amended as follows.
- (2) In sub-paragraph (2), after “to be met;” insert—
- “(aa) an alteration is made in a key feature of the scheme without the approval of the Inland Revenue;”.
- (3) After that sub-paragraph insert—
- “(2A) For the purposes of sub-paragraph (2)(aa) the Inland Revenue may not withhold their approval unless it appears to them at the time in question that the scheme as proposed to be altered would not then be approved on an application under paragraph 40.
- (2B) For the purposes of that sub-paragraph a “key feature” of a scheme is a provision of the scheme which is necessary in order to meet the requirements of this Schedule.”.
- (4) For paragraph 43 (approval ineffective after unapproved alteration and notice of decisions) and the heading before it substitute—

“Notice of decision about alteration

- 43 Where the Inland Revenue—
- (a) have been requested to approve any alteration in a SAYE option scheme that has been approved, and
- (b) have decided whether or not to approve the alteration, they must give notice of their decision to the scheme organiser.”.
- (5) For paragraph 44(1)(b) (appeal against decision not to approve alteration) substitute—

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

“(b) decide to refuse approval under paragraph 42(2)(aa).”.

PART 3

CSOP SCHEMES

Introductory

13 The Income Tax (Earnings and Pensions) Act 2003 (c. 1) is amended as follows.

Exercise of options: exclusion of income tax liability

14 (1) Section 524 (no charge in respect of exercise of option under CSOP scheme) is amended as follows.

(2) For subsection (1)(b) substitute—

“(b) Condition A or B is met.”.

(3) For subsections (2) and (3) substitute—

“(2) Condition A is that the option is exercised—

- (a) on or after the third anniversary of the date on which it was granted, but
- (b) not later than the tenth anniversary of that date.

(2A) Condition B is that the option—

- (a) is exercised before the third anniversary of the date on which it was granted, and
- (b) is so exercised by virtue of a provision included in the scheme under paragraph 24 of Schedule 4 (exercise of options after ceasing to be director or employee) in circumstances in which subsection (2B) applies.

(2B) This subsection applies if the individual exercising the option—

- (a) has ceased to be a full-time director or qualifying employee of the scheme organiser (or, in the case of a group scheme, a constituent company) because of injury, disability, redundancy or retirement, and
- (b) exercises the option within 6 months of the day on which he ceases to be such a director or employee.

(2C) In subsection (2B)—

“redundancy” means redundancy within the meaning of ERA 1996 or ER(NI)O 1996, and

“retirement” means retirement on or after reaching a retirement age specified in the scheme.”.

(4) For section 525(1)(b) (no charge in respect of post-acquisition benefits) substitute—

“(b) Condition A or B (as set out in section 524(2) or (2A)) is met.”.

(5) This paragraph has effect in relation to any exercise of an option on or after 9th April 2003.

15 (1) Schedule 4 (approved CSOP schemes) is amended as follows.

(2) After paragraph 35 insert—

“Retirement age

35A A retirement age specified in a CSOP scheme—

- (a) must be the same for men and women, and
- (b) must not be less than 55.”.

Meaning of “material interest”

16 (1) In paragraphs 10(2) and (3), 11(3) and (4) and 13(2) (material interest), for “10%” substitute “25%”.

(2) This paragraph has effect for the purpose of determining whether a person is eligible to participate in a scheme on the date on which this Act is passed or any later date (by altering what constitutes a material interest on that date and within the 12 months preceding that date).

Alteration of schemes

17 (1) Paragraph 30 (withdrawal of approval) is amended as follows.

(2) In sub-paragraph (2), after “to be met;” insert—

“(aa) an alteration is made in a key feature of the scheme without the approval of the Inland Revenue;”.

(3) After that sub-paragraph insert—

“(3) For the purposes of sub-paragraph (2)(aa) the Inland Revenue may not withhold their approval unless it appears to them at the time in question that the scheme as proposed to be altered would not then be approved on an application under paragraph 28.

(4) For the purposes of that sub-paragraph a “key feature” of a scheme is a provision of the scheme which is necessary in order to meet the requirements of this Schedule.”.

(4) For paragraph 31 (approval ineffective after unapproved alteration and notice of decisions) and the heading before it substitute—

“Notice of decision about alteration

31 Where the Inland Revenue—

- (a) have been requested to approve any alteration in a CSOP scheme that has been approved, and
 - (b) have decided whether or not to approve the alteration,
- they must give notice of their decision to the scheme organiser.”.

(5) For paragraph 32(1)(b) (appeal against decision not to approve alteration) substitute—

“(b) decide to refuse approval under paragraph 30(2)(aa).”.

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

PAYE

- 18 (1) Section 701(2)(c) (PAYE: exclusions from meaning of “asset”) is amended as follows.
- (2) In sub-paragraph (i), omit “or 4 (approved CSOP schemes)”.
- (3) After that sub-paragraph insert—
- “(ia) any shares acquired by the employee (whether or not as a result of the exercise of a right to acquire shares) under a scheme approved under Schedule 4 (approved CSOP schemes), other than shares acquired as a result of the exercise of the right before the third anniversary of the date on which it was granted or later than the tenth anniversary of that date;”.
- (4) In sub-paragraph (ii), for “such a scheme” substitute “a scheme such as is mentioned in sub-paragraph (i) or (ia)”.
- (5) This paragraph has effect in relation to shares acquired on or after 9th April 2003.