

## SCHEDULES

### SCHEDULE 5

Section 25

#### ENTERPRISE INVESTMENT SCHEME

##### *Introductory*

1 Part 5 of ITA 2007 (enterprise investment scheme) is amended as follows.

##### *Limiting eligibility for relief to investments made before 2025*

2 (1) Section 157 (eligibility for EIS relief) is amended as follows.

(2) In subsection (1), after paragraph (a) insert—

“(aa) the shares are issued before 6 April 2025.”.

(3) After that subsection insert—

“(1A) The Treasury may, by regulations, amend subsection (1)(aa) to substitute a different date for the date for the time being specified there.”

##### *The investor*

3 In section 162 (overview of Chapter 2: the investor), omit the “and” at the end of paragraph (b) and after that paragraph insert—

“(ba) existing shareholdings (see section 164A), and”.

4 After section 164 insert—

#### **“164A The existing shareholdings requirement**

(1) If, at the time the relevant shares are issued, the investor holds any other shares in a company within subsection (2) (“C”), those other shares must be—

(a) a risk finance investment, or

(b) subscriber shares which—

(i) were issued to, and have since they were issued been continuously held by, the investor, or

(ii) were acquired by the investor at a time when C had not issued any shares other than subscriber shares and had not begun to carry on or make preparations for carrying on any trade or business.

(2) The companies referred to in subsection (1) are—

(a) the issuing company, and

(b) any company which is a qualifying subsidiary of the issuing company at the time the relevant shares are issued.

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- (3) Shares in a company are a “risk finance investment” if—
- (a) they are issued by the company to the investor, and
  - (b) (at any time) the company provides a compliance statement under section 205, 257ED or 257PB in respect of the issue of shares which includes those shares.”

- 5 In section 166 (connection with issuing company), after subsection (1) insert—
- “(1A) But see section 252A(12) for provision which disapplies section 168.”

*General requirements*

- 6 In section 172 (overview of Chapter 3: general requirements)—
- (a) in paragraph (aa) for “capital schemes” substitute “ finance investments ”,
  - (b) after that paragraph insert—
    - “(aaa) the maximum risk finance investments at the issue date (see section 173AA),
    - (aab) the maximum risk finance investments at times during period B (see section 173AB),”
  - (c) omit paragraph (ab), and
  - (d) after paragraph (c) insert—
    - “(ca) the permitted maximum age (see section 175A),”.

- 7 (1) Section 173A (the maximum amount raised annually through risk capital schemes requirement) is amended as follows.

- (2) For subsection (2) substitute—

“(2) In subsection (1), the reference to relevant investments made in the issuing company includes—

- (a) a relevant investment made in any company that has at any time in the year mentioned there been a 51% subsidiary of the issuing company (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the end of that year, not those made after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time in that year been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at the end of that year, ignoring any money so employed after it last ceased to be such a subsidiary), and
- (c) any other relevant investment made in a company if—
  - (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
  - (ii) in that year, after the investment was made, the trade (or a part of it) became a relevant transferred trade (see subsection (2B)).

- (2A) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the

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reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.

(2B) Where—

- (a) in the year mentioned in subsection (1) a trade is transferred—
  - (i) to the issuing company,
  - (ii) to a company that has at any time during that year been a 51% subsidiary of the issuing company, or
  - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,(including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, in that year before the company became such a subsidiary but, if the company is not such a subsidiary at the end of that year, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and
- (b) that trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).”

(3) In subsection (3)—

- (a) after paragraph (b) insert—
  - “(ba) an investment is made in the company and (at any time) the company provides a compliance statement under section 257PB (tax relief for social investments) in respect of the investment, or”, and
- (b) in paragraph (c), for “Community Guidelines on Risk Capital Investments in Small and Medium-sized Enterprises” substitute “European Commission’s Guidelines on State aid to promote risk finance investment”.

(4) After subsection (4) insert—

“(5) Section 257KB applies in determining for those purposes when an investment within subsection (3)(ba) is made as it applies for the purposes of Part 5B (tax relief on social investments).”

(5) After subsection (5) insert—

“(6) For the purposes of this section—

- (a) references to a trade include a part of a trade (and references to the carrying on of a trade are to be construed accordingly);
- (b) when determining the amount of money raised by a relevant investment which has been employed for the purposes of a trade such apportionments are to be made as are just and reasonable.

(7) In this section “trade” includes—

- (a) any business or profession,
- (b) so far as not within paragraph (a), the carrying on of research and development activities from which it is intended a trade will be derived or will benefit, and
- (c) preparing to carry on a trade.”

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- (6) In the heading, for “capital schemes” substitute “finance investments”.
- 8       After section 173A insert—

**“173AA Maximum risk finance investments at the issue date requirement**

- (1) The total amount of relevant investments made in the issuing company on or before the issue date must not exceed—
- (a) if the issuing company is a knowledge-intensive company at the issue date (see section 252A), £20 million, and
  - (b) in any other case, £12 million.
- (2) In subsection (1) the reference to relevant investments made in the issuing company includes—
- (a) any relevant investment made in any company that at the issue date is, or has at any time before that date been, a 51% subsidiary of the issuing company (including investments made in such a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not investments made in it after it last ceased to be such a subsidiary),
  - (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any time before the issue date been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at that date, ignoring any money so employed after it last ceased to be such a subsidiary), and
  - (c) any other relevant investment made in a company if—
    - (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
    - (ii) after the investment was made, but on or before the issue date, that trade became a relevant transferred trade (see subsection (4)).
- (3) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which becomes a relevant transferred trade, the reference in subsection (2)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.
- (4) Where—
- (a) at any time on or before the issue date, a trade is transferred—
    - (i) to the issuing company,
    - (ii) to a company that at the issue date is, or has at any time before that date been, a 51% subsidiary of the issuing company, or
    - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,
 (including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary but, if the company is not such a subsidiary at the issue date, not where it is

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transferred to such a company or partnership after the company last ceased to be such a subsidiary), and

- (b) the trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).

- (5) In this section—

“the issue date” means the date on which the relevant shares are issued;

“relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;

and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.

### **173AB Maximum risk finance investments during period B requirement**

- (1) The requirement of this section applies if condition A or B is met.
- (2) Condition A is that—
- (a) a company becomes a 51% subsidiary of the issuing company at any time during period B,
- (b) all or part of the money raised by the issue of the relevant shares is employed for the purposes of a qualifying business activity which consists wholly or in part of a trade carried on by that company, and
- (c) that trade (or a part of it) was carried on by that company before it became a 51% subsidiary as mentioned in paragraph (a).
- (3) Condition B is that all or part of the money raised by the issue of the relevant shares is employed for the purposes of a qualifying business activity which consists wholly or in part of a trade which, during period B, becomes a relevant transferred trade.
- (4) The requirement of this section is that, at all times in period B, the total of the relevant investments made in the issuing company before the time in question (“the relevant time”) must not exceed—
- (a) if the issuing company is a knowledge-intensive company at the issue date (see section 252A), £20 million, and
- (b) in any other case, £12 million.
- (5) In subsection (4) the reference to relevant investments made in the issuing company includes—
- (a) any relevant investment made in any company that at any time before the relevant time has been a 51% subsidiary of the issuing company (including investments made in a company before it became such a subsidiary but, if it is not such a subsidiary at the relevant time, not investments made in it after it last ceased to be such a subsidiary),
- (b) any other relevant investment made in a company to the extent that the money raised by the investment has been employed for the purposes of a trade carried on by another company that has at any

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time before the relevant time been a 51% subsidiary of the issuing company (but, if it is not such a subsidiary at the relevant time, ignoring any money so employed after it last ceased to be such a subsidiary), and

- (c) any other relevant investments made in a company where—
- (i) the money raised by the investment has been employed for the purposes of a trade carried on by that company or another person, and
  - (ii) after the investment was made, but before the relevant time, that trade (or a part of it) becomes a relevant transferred trade (see subsection (7)).

(6) If only a proportion of the money raised by a relevant investment is employed for the purposes of a trade which became a relevant transferred trade, the reference in subsection (5)(c) to the relevant investment is to be read as a reference to the corresponding proportion of that investment.

(7) Where—

- (a) before the relevant time, a trade is transferred—
- (i) to the issuing company,
  - (ii) to a company that is at the relevant time, or has before that time been, a 51% subsidiary of the issuing company, or
  - (iii) to a partnership of which a company within subparagraph (i) or (ii) is a member,
- (including where it is transferred to a company within subparagraph (ii), or a partnership of which such a company is a member, before the company became such a subsidiary but, if the company is not such a subsidiary at the relevant time, not where it is transferred to such a company or partnership after the company last ceased to be such a subsidiary), and
- (b) the trade or a part of it was previously (at any time) carried on by another person,

the trade or part mentioned in paragraph (b) becomes a “relevant transferred trade” at the time it is transferred as mentioned in paragraph (a).

(8) In this section—

“the issue date” means the date on which the relevant shares are issued, and

“relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;

and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.”

9 Omit section 173B (the spending of money raised by SEIS investment requirement).

10 (1) Section 174 (the purpose of the issue requirement) is amended as follows.

(2) The existing text becomes subsection (1).

(3) In that subsection, after “activity” insert “ so as to promote business growth and development ”.

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- (4) After that subsection insert—
- “(2) For this purpose “business growth and development” means the growth and development of—
- (a) if the issuing company is a single company, the business of that company, and
  - (b) if the issuing company is a parent company, what would be the business of the group if the activities of the group companies taken together were regarded as one business.”
- 11 (1) Section 175 (the use of money raised requirement) is amended as follows.
- (2) For subsection (1A) substitute—
- “(1ZA) Employing money raised by the issue of the relevant shares (whether on its own or together with other money) on the acquisition, directly or indirectly, of—
- (a) an interest in another company such that a company becomes a 51% subsidiary of the issuing company,
  - (b) a further interest in a company which is a 51% subsidiary of the issuing company,
  - (c) a trade,
  - (d) intangible assets employed for the purposes of a trade, or
  - (e) goodwill employed for the purposes of a trade,
- does not amount to employing that money for the purposes of a qualifying business activity.
- (1ZB) The Treasury may by regulations provide that subsection (1ZA) does not apply in relation to acquisitions of intangible assets which are of a description specified, or which occur in circumstances specified, in the regulations.
- (1ZC) For the purposes of subsections (1ZA) and (1ZB)—
- “goodwill” has the same meaning as in Part 8 of CTA 2009 (see section 715(3));
  - “intangible assets” means any asset which falls to be treated as an intangible asset in accordance with generally accepted accountancy practice;
- and section 173A(6) and (7) (meaning of “trade” etc) applies as it applies for the purposes of section 173A.
- (1A) Also, otherwise employing money on the acquisition of shares or stock in a company does not of itself amount to employing the money for the purposes of a qualifying business activity.”
- 12 After section 175 insert—
- “175A The permitted maximum age requirement**
- (1) The requirement of this section is that, if the relevant shares are issued after the initial investing period, condition A, B or C must be met.
  - (2) “The initial investing period” means—

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- (a) where the issuing company is a knowledge-intensive company at the issue date, the period of 10 years beginning with the relevant first commercial sale, and
  - (b) in any other case, the period of 7 years beginning with that sale.
- (3) Condition A is that—
- (a) a relevant investment was made in the issuing company before the end of the initial investing period, and
  - (b) some or all of the money raised by that investment was employed for the purposes of the relevant qualifying business activity (or a part of it).
- (4) Condition B is that—
- (a) the total amount of relevant investments made in the issuing company in a period of 30 consecutive days which includes the issue date is at least 50% of the average turnover amount, and
  - (b) the money raised by those investments is employed for the purpose of entering a new product or geographical market.
- (5) Condition C is that—
- (a) condition B in subsection (4) or condition B in section 294A(4) (VCT: permitted company age requirement) was previously met in relation to one or more relevant investments made in the issuing company, and
  - (b) some or all of the money raised by those investments was employed for the purposes of the relevant qualifying business activity.
- (6) “The relevant first commercial sale” means the earliest of the following—
- (a) the first commercial sale made by the issuing company;
  - (b) the first commercial sale made by a company that is at the issue date, or before that date has been, a 51% subsidiary of the issuing company (including a sale made by a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not a sale made after it last ceased to be such a subsidiary);
  - (c) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on, on or before the issue date, by—
    - (i) the issuing company, or
    - (ii) a company that is at the issue date, or before that date has been, a 51% subsidiary of the issuing company,
 (including a trade subsequently carried on by such a company before it became such a subsidiary but, if it is not such a subsidiary at the issue date, not a trade which it carried on only after it last ceased to be such a subsidiary);
  - (d) the first commercial sale made by a company which becomes a 51% subsidiary of the issuing company after the issue date in circumstances where all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by that subsidiary (including a sale made by such a company before it became such a subsidiary);



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- (e) the first commercial sale made by any person who previously (at any time) carried on a trade which was subsequently carried on by a company mentioned in paragraph (d) (including a trade carried on by such a company before it became such a subsidiary);
  - (f) if the money raised by the issue of the relevant shares (or any part of it) is employed for the purposes of a trade which has been transferred, after the issue date, to the issuing company or a 51% subsidiary of that company (or a partnership of which the issuing company or such a subsidiary is a member), having previously (at any time) been carried on by another person, the first commercial sale made by that other person.
- (7) “The average turnover amount” means one fifth of the total relevant turnover amount for the five year period which ends—
- (a) immediately before the beginning of the last accounts filing period, or
  - (b) if later, 12 months before the issue date.
- (8) In this section—
- “entering a new product or geographical market” has the same meaning as in [Commission Regulation \(EU\) No 651/2014](#) (General block exemption Regulation);
- “first commercial sale” has the same meaning as in the European Commission's Guidelines on State aid to promote risk finance investments (as those guidelines may be amended or replaced from time to time);
- “the issue date” means the date on which the relevant shares are issued;
- “the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the issuing company which ends before the date on which the relevant shares are issued;
- “relevant investment” has the meaning given by section 173A(3), and section 173A(4) and (5) (which determines when certain investments are made) applies for the purposes of this section;
- “relevant qualifying business activity” means the qualifying business activity for which the money raised by the issue of the relevant shares is employed;
- “the total relevant turnover amount” for a period is—
- (a) if the issuing company is a single company at the issue date, the sum of—
    - (i) the issuing company's turnover for that period,
    - (ii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the issuing company after the issue date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
    - (iii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of a transferred trade, the turnover of that trade for so

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much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) and (ii));

- (b) if the issuing company is a parent company at the issue date, the sum of—
- (i) the issuing company's turnover for that period,
  - (ii) the turnover for that period of each company which at the issue date is a qualifying subsidiary of the issuing company,
  - (iii) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of an activity carried on by a company which becomes a 51% subsidiary of the issuing company after the issue date, the turnover for that period of that subsidiary (or, if there is more than one, each of them), and
  - (iv) if all or part of the money raised by the issue of the relevant shares is employed for the purposes of a transferred trade, the turnover of that trade for so much of that period as falls before the trade became a transferred trade (except to the extent that it is already included in calculating the amounts within sub-paragraphs (i) to (iii));

“transferred trade” means a trade which has been transferred to the company which is carrying on the trade at the time the money raised by the issue of the relevant shares is employed or to a partnership of which that company is a member;

“turnover”—

- (a) in relation to a company, has the meaning given by section 474(1) of the Companies Act 2006 and is to be determined by reference to the accounts of companies and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a company's turnover for a period);
- (b) in relation to any other person carrying on a trade, also has the meaning given by section 474(1) of that Act (reading references in that provision to a company as references to the person) and is to be determined by reference to the accounts of the person and amounts recognised for accounting purposes (and such apportionments of those amounts as are just and reasonable are to be made for the purpose of determining a person's turnover for a period);
- (c) in relation to a transferred trade carried on by a company or other person, means such proportion of the turnover of the company or other person as it is just and reasonable to attribute to the transferred trade;

and section 173A(6) and (7) (meaning of “trade” etc) applies for the purposes of this section as it applies for the purposes of section 173A.”

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*The issuing company*

- 13 In section 186A (the number of employees requirement)—
- (a) in subsections (1) and (2) for “250” substitute “ the permitted limit ”, and
  - (b) after subsection (3) insert—
    - “(3A) The permitted limit” means—
      - (a) if the issuing company is a knowledge-intensive company (see section 252A) at the time the relevant shares are issued, 500, and
      - (b) in any other case, 250.
    - (3B) The Treasury may by regulations amend subsection (3A)(a) or (b) by substituting a different number for the number for the time being specified there.”
- 14 Omit section 200 (power to amend certain provisions of Chapter 4 of Part 5 of ITA 2007 by Treasury order).

*Repayment etc of share capital*

- 15 (1) Section 224 (repayments etc of share capital to other persons) is amended as follows.
- (2) In subsection (4), after paragraph (a) insert—
- “(aa) causes any SEIS relief attributable to that person's shares in the issuing company to be withdrawn or reduced by virtue of—
    - (i) section 257FA (disposal of shares), or
    - (ii) section 257FH(2)(a) (receipt of value by virtue of repayment of share capital etc),”.
- (3) In subsection (5)—
- (a) after “subsection (4)(a),” insert “ (aa), ” and
  - (b) after paragraph (a) insert—
    - “(aa) section 257FE,”.

*Information to be provided by issuing company etc*

- 16 In section 241 (information to be provided by the issuing company etc), in subsection (1), before paragraph (a) insert—
- “(za) a requirement of any of the following provisions is not met in respect of the shares included in the issue, or would not be met if EIS relief had been obtained in respect of those shares—
    - (i) section 173A (the maximum amount raised annually through risk finance investments),
    - (ii) section 173AA (the maximum amount raised through risk finance investments at the issue date),
    - (iii) section 173AB (the maximum amount raised through finance investments during period B),
    - (iv) section 175A (the permitted maximum age requirement),”.

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*Acquisition of issuing company*

17 In section 247 (continuing of EIS relief where issuing company is acquired by new company), after subsection (3) insert—

“(3A) In section 173AB(2)(a) and in the definition of “the total relevant turnover amount” in section 175A(8), references to a company becoming a 51% subsidiary of the issuing company after the issue date do not include a company becoming such a subsidiary as a result of an exchange of shares as mentioned in subsection (1).”

*Powers to amend Part 5 of ITA 2007*

18 After section 251 insert—

*“Powers to amend*

**251A Powers to amend Chapters 2 to 4 by Treasury regulations**

- (1) The Treasury may by regulations add to, repeal or otherwise amend any provision of—
  - (a) Chapter 2 (the requirements to be met in relation to the investor),
  - (b) Chapter 3 (the general requirements to be met in respect of the relevant shares), or
  - (c) Chapter 4 (the requirements to be met by the issuing company for it to be a qualifying company in relation to the relevant shares).
- (2) Regulations under this section may—
  - (a) make different provision for different cases or purposes;
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (3) The provision which may be made as a result of subsection (2)(b) includes provision amending any provision of this or any other Act (including an Act passed after this Act).
- (4) Regulations under this section may, so long as they do not increase any person's liability to any tax, be made to have retrospective effect in relation to any time in the tax year in which they are made or the previous tax year.
- (5) This section is without prejudice to any other power to amend any provision of this Part.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

*“Knowledge-intensive companies”*

19 After section 252 insert—

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### **“252A Meaning of “knowledge-intensive company”**

- (1) For the purposes of this Part, the issuing company is a “knowledge-intensive company” at the time the relevant shares are issued if the company meets—
  - (a) one or both of the operating costs conditions (see subsections (2) and (3)), and
  - (b) one or both of—
    - (i) the innovation condition (see subsection (5)), and
    - (ii) the skilled employee condition (see subsection (8)).
- (2) The first operating costs condition is that in at least one of the relevant three preceding years at least 15% of the relevant operating costs constituted expenditure on research and development or innovation.
- (3) The second operating costs condition is that in each of the relevant three preceding years at least 10% of the relevant operating costs constituted such expenditure.
- (4) In subsections (2) and (3)—

“relevant operating costs” means—

  - (a) if the issuing company is a single company at the time the relevant shares are issued, the operating costs of that company, and
  - (b) if the issuing company is a parent company at the time the relevant shares are issued, the sum of—
    - (i) the operating costs of the issuing company, and
    - (ii) the operating costs of each company which is a qualifying subsidiary of the issuing company at that time;

“the relevant three preceding years” means the three consecutive years the last of which ends—

  - (a) immediately before the beginning of the last accounts filing period, or
  - (b) if later, 12 months before the date on which the relevant shares are issued.
- (5) “The innovation condition” is—
  - (a) where the issuing company is a single company, that—
    - (i) the issuing company is engaged in intellectual property creation at the time the relevant shares are issued, and
    - (ii) it is reasonable to assume that, within 10 years of the issue of the relevant shares, one or a combination of—
      - (a) the exploitation of relevant intellectual property held by the company, and
      - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the company,will form the greater part of its business;
  - (b) where the issuing company is a parent company, that—

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- (i) the parent company or one or more of its qualifying subsidiaries (or both that company and one or more of those subsidiaries) is or are engaged in intellectual property creation at the time the relevant shares are issued, and
  - (ii) it is reasonable to assume that, within 10 years of the issue of the relevant shares, one or a combination of—
    - (a) the exploitation of relevant intellectual property held by the parent company or any of its qualifying subsidiaries, and
    - (b) business which results from new or improved products, processes or services utilising relevant intellectual property held by the parent company or any of its qualifying subsidiaries,
 will form the greater part of what would be the business of the group if the activities of the group companies taken together are regarded as one business.
- (6) For the purposes of subsection (5), a company is engaged in intellectual property creation if—
  - (a) relevant intellectual property is being created by the company, or has been created by it within the previous three years,
  - (b) the company is taking, or preparing to take, steps in order that relevant intellectual property will be created by it, or
  - (c) the company is carrying on activity which is the subject of a written evaluation which—
    - (i) has been prepared by an independent expert, and
    - (ii) includes a statement to the effect that, in the opinion of the expert, it is reasonable to assume that relevant intellectual property will, in the foreseeable future, be created by the company.
- (7) For the purposes of this section—
  - (a) intellectual property is “relevant” intellectual property, in relation to a company, if the whole or greater part (in terms of value) of it is created by the company, and
  - (b) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (8) “The skilled employee condition” is that throughout period B—
  - (a) if the issuing company is a single company, the FTE skilled employee number is at least 20% of the FTE employee number, and
  - (b) if the issuing company is a parent company, the FTE group skilled employee number is at least 20% of the FTE group employee number.
- (9) But, in subsection (8), the reference to period B does not include any period during which the issuing company, by virtue of section 182 (companies in administration or receivership), is not regarded as having ceased to meet the trading requirement.
- (10) In this section—

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, SCHEDULE 5. (See end of Document for details)*

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“FTE employee number” for a company is the full-time equivalent employee number determined in accordance with section 186A(3);

“FTE group employee number” means the sum of—

- (a) the FTE employee number for the issuing company, and
- (b) the FTE employee number for each of its qualifying subsidiaries;

“FTE group skilled employee number” means the sum of—

- (a) the FTE skilled employee number for the issuing company, and
- (b) the FTE skilled employee number for each of its qualifying subsidiaries;

“FTE skilled employee number” for a company is determined in accordance with section 186A(3) in the same way as the full-time equivalent employee number except that only employees of the company who—

- (a) hold a relevant HE qualification, and
- (b) are engaged directly in research and development or innovation activities carried on—
  - (i) if the issuing company is a single company, by that company, or
  - (ii) if the issuing company is a parent company, by that company or any qualifying subsidiary of that company,

are to be taken into account;

“independent expert”, in relation to an evaluation of activity of a company, means an individual who—

- (a) is not connected with the issuing company,
- (b) holds a relevant HE qualification, and
- (c) is an expert in the area of research and development or innovation being or to be pursued by the company in question;

“intellectual property” has the meaning given by section 195(6);

“the last accounts filing period” means the last period for filing (within the meaning of section 442 of the Companies Act 2006) for the issuing company which ends before the date on which the relevant shares were issued;

“operating costs”, of a company for a period of account, means expenses of the company which are recognised as expenses in the company's profit and loss account or income statement for that period, other than expenses relating to transactions between that company and another company at a time when both companies are members of the same group (but see also subsection (11));

“relevant HE qualification” means—

- (a) a qualification which is at level 7, or a higher level, of the framework for higher education qualifications in England, Wales and Northern Ireland (as that framework may be amended or replaced from time to time),
- (b) a qualification which is at level 11, or a higher level, of the framework for qualifications of higher education institutions

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in Scotland (as that framework may be amended or replaced from time to time), or

(c) a comparable qualification to one within paragraph (a) or (b).

- (11) Such apportionments as are just and reasonable are to be made to amounts recognised in a company's profit and loss account or income statement for the purpose of determining the company's operating costs for a year.
- (12) When determining whether an individual is connected with the issuing company for the purposes of this section, section 168 is to be ignored.
- (13) The Treasury may by regulations amend this section for the purposes of adding, amending or removing a condition which must be met for a company to be a knowledge-intensive company.
- (14) A statutory instrument containing regulations under subsection (13) may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.”

#### *Consequential repeals*

- 20 (1) In consequence of paragraphs 6(c) and 9, in Schedule 6 to FA 2012, omit paragraphs 11 and 13.
- (2) In consequence of paragraph 13, in Schedule 7 to FA 2012, omit paragraph 12.
- (3) In consequence of paragraph 14, in Schedule 7 to FA 2012, omit paragraph 16.

#### *Commencement and transitional provision*

- 21 The amendments made by paragraphs 6(c), 9 and 20(1) have effect in relation to shares issued on or after 6 April 2015.
- 22 The amendments made by paragraph 15 have effect in relation to any repayment, redemption or repurchase of share capital, or payment to a member, on or after 6 April 2014.
- 23 (1) The amendments made by paragraphs 3 to 5, 6 (other than paragraph (c)), 7, 8, 10 to 12, 13, 16, 17 and 20(2) and (3) have effect in relation to shares issued on or after the day on which this Act is passed.
- (2) But nothing in sub-paragraph (1) prevents shares issued before that day constituting “relevant investments” for the purposes of determining whether the requirements of sections 173A, 173AA, 173AB and 175A are met in relation to shares issued on or after that day.



**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2015, SCHEDULE 5.