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*Basic provisions*

**1 Apprenticeship levy**

- (1) A tax called apprenticeship levy is to be charged in accordance with this Part.
- (2) The Commissioners are responsible for the collection and management of apprenticeship levy.

**2 Charge to apprenticeship levy**

- (1) Apprenticeship levy is charged if –
  - (a) a person has a pay bill for a tax year, and
  - (b) the relevant percentage of that pay bill exceeds the amount of the person's levy allowance (if any) for that tax year.
- (2) The amount charged for the tax year is equal to –

$$N - A$$

where –

N is the relevant percentage of the pay bill for the tax year, and  
A is the amount of the levy allowance (if any) to which the person is entitled for the tax year.

- (3) The person mentioned in subsection (1) is liable to pay the amount charged.
- (4) Except so far as any of sections 4 to 6 provides otherwise, a person who has a pay bill for a tax year is entitled to a levy allowance of £15,000 for the tax year.
- (5) For the purposes of this section the “relevant percentage” is 0.5%.

**3 A person's pay bill for a tax year**

- (1) A person has a pay bill for a tax year if, in the tax year –
  - (a) the person is the secondary contributor in relation to payments of earnings to, or for the benefit of, one or more employed earners, and
  - (b) in consequence, the person incurs liabilities to pay secondary Class 1 contributions.
- (2) The amount of the person's pay bill for the tax year is equal to the total amount of the earnings in respect of which the liabilities mentioned in subsection (1)(b) are incurred.

- (3) For the purposes of this section a person is treated as incurring, in respect of any earnings, any liabilities which the person would incur but for the condition in section 6(1)(b) of the Contributions and Benefits Act.
- (4) The Treasury may by regulations provide for persons specified in certificates in force under section 120(4) of the Social Security Contributions and Benefits Act 1992 to be treated for the purposes of this section as the secondary contributor in relation to payments of earnings to which the certificate relates and as liable to pay secondary Class 1 contributions to which the certificate relates.
- (5) For the purposes of this section—
  - (a) references to “payments of earnings” are to be interpreted as they would be interpreted for the purposes of determining liability to pay secondary Class 1 contributions under the Contributions and Benefits Act;
  - (b) the amount of any earnings is to be calculated in the same manner and on the same basis as for the purpose of calculating the liabilities mentioned in subsection (1)(b).
- (6) In this section references to liability to pay secondary Class 1 contributions are to liability to pay secondary Class 1 contributions under Part 1 of the Contributions and Benefits Act (and are therefore to be interpreted in accordance with sections 9A(6) and 9B(3) of that Act).

*Connected companies and charities*

#### **4 Connected companies**

- (1) This section applies if—
  - (a) at the beginning of a tax year two or more companies which are not charities are connected with one another, and
  - (b) apart from this section, two or more of the companies (the “qualified companies”) would be entitled to a levy allowance for the tax year.
- (2) Only one of the qualified companies can be entitled to a levy allowance for the tax year.
- (3) It is up to the qualified companies to decide which of them that is to be.
- (4) Part 1 of Schedule 1 to the National Insurance Contributions Act 2014 (rules for determining whether companies are “connected” with one another) applies for the purposes of subsection (1) as it applies for the purposes of section 3(1) of that Act.
- (5) In this section “company” has the meaning given by section 1121(1) of CTA 2010 and includes a limited liability partnership.
- (6) See section 5 for the meaning of “charity”.

#### **5 Connected charities**

- (1) This section applies if—
  - (a) at the beginning of a tax year two or more charities are connected with one another, and

- 
- (b) apart from this section, two or more of the charities (the “qualified charities”) would be entitled to a levy allowance for the tax year.
  - (2) Only one of the qualified charities can be entitled to a levy allowance for the tax year.
  - (3) It is up to the qualified charities to decide which of them that is to be.
  - (4) In this Part “charity” means –
    - (a) a charity within the meaning of Part 1 of Schedule 6 to FA 2010;
    - (b) the Trustees of the National Heritage Memorial Fund;
    - (c) the Historic Buildings and Monuments Commission for England;
    - (d) a registered club within the meaning of Chapter 9 of Part 13 of CTA 2010 (community amateur sports clubs).
  - (5) Subsection (4) is subject to section 20(5).
  - (6) See sections 20 and 21 for provision about the meaning of “connected” in subsection (1).

*Anti-avoidance*

**6 Anti-avoidance**

- (1) For the purposes of this section “avoidance arrangements” are arrangements the main purpose, or one of the main purposes, of which is to secure that a person –
  - (a) benefits, or further benefits, from an entitlement to a levy allowance for a tax year, or
  - (b) otherwise obtains an advantage in relation to apprenticeship levy.
- (2) Subsection (3) applies where, in consequence of avoidance arrangements within subsection (1)(a) or (b), a person incurs a liability to pay secondary Class 1 contributions in a particular tax year (as opposed to another tax year).
- (3) If the person would, apart from this subsection, obtain an advantage in relation to apprenticeship levy as a result of incurring the liability at the time mentioned in subsection (2), section 3 has effect as if the liability had been incurred when it would have been incurred but for the avoidance arrangements.
- (4) Subsection (6) applies where (apart from this section) a person (“P”) –
  - (a) would be in a position to use or make greater use of a levy allowance for a tax year, in consequence of avoidance arrangements within subsection (1)(a), or
  - (b) would otherwise obtain an advantage in relation to apprenticeship levy in consequence of avoidance arrangements within subsection (1)(a).
- (5) But subsection (6) only applies so far as the advantage in relation to apprenticeship levy cannot be counteracted under subsection (3).
- (6) P is not entitled to an annual allowance for the tax year.
- (7) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

- (8) In this section a reference to “an advantage in relation to apprenticeship levy” includes a reference to –
- (a) repayment or increased repayment of apprenticeship levy,
  - (b) avoidance or reduction of a charge, or an assessment, to the levy,
  - (c) avoidance of a possible assessment to the levy,
  - (d) deferral of a payment of, or advancement of a repayment of, the levy, and
  - (e) avoidance of an obligation to account for the levy.
- (9) Sections 4 and 5 are to be ignored for the purpose of determining under subsection (4) what the position would be apart from this section.
- (10) In subsection (2) the reference to “a particular tax year” is to be read as including a reference to the period of 12 months beginning with 6 April 2016.

## **7 Application of other regimes to apprenticeship levy**

- (1) In section 318(1) of FA 2004 (disclosure of tax avoidance schemes: interpretation), in the definition of “tax”, after paragraph (d) insert –
 

“(da) apprenticeship levy,”.
- (2) In section 206(3) of FA 2013 (taxes to which the general anti-abuse rule applies), after paragraph (da) insert –
 

“(db) apprenticeship levy,”.
- (3) Part 4 of FA 2014 (follower notices and accelerated payments) is amended in accordance with subsections (4) and (5).
- (4) In section 200 (meaning of “relevant tax”), after paragraph (c) insert –
 

“(ca) apprenticeship levy,”.
- (5) In section 203 (meaning of “tax appeal”), after paragraph (e) insert –
 

“(ea) an appeal under section 17 of FA 2016 (apprenticeship levy: appeal against an assessment),”.
- (6) Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended as follows.
- (7) In section 253(6) (duty to notify the Commissioners: meaning of “tax return”), after paragraph (d) insert –
 

“(da) a return under regulations made under section 8 of FA 2016 (apprenticeship levy);”.
- (8) In section 283(1) of FA 2014 (interpretation), in the definition of “tax”, after paragraph (d) insert –
 

“(da) apprenticeship levy,”.

### *Payment, collection and recovery*

## **8 Assessment, payment etc**

- (1) The Commissioners may by regulations make provision about the assessment, payment, collection and recovery of apprenticeship levy.
- (2) Regulations under subsection (1) may include –
  - (a) provision which applies, with or without modifications, provisions of PAYE regulations;

- 
- (b) provision for combining any arrangements under the regulations with arrangements under PAYE regulations.
- (3) Regulations under subsection (1) may –
- (a) require payments to be made on account of apprenticeship levy;
  - (b) determine periods (“tax periods”) by reference to which payments are to be made;
  - (c) make provision about the times at which payments are to be made and methods of payment;
  - (d) require the amounts payable by reference to tax periods to be calculated (and levy allowance to be taken into account) in the manner and on the basis determined by or under the regulations;
  - (e) make provision for dealing with cases where such calculations lead to overpayment of levy (by repayment or otherwise);
  - (f) make other provision about the recovery of overpayments of levy.
- (4) Regulations under subsection (1) may make provision requiring persons to make returns, including provision about –
- (a) the periods by reference to which returns are to be made,
  - (b) timing,
  - (c) form and content, and
  - (d) the method of making returns.
- (5) Regulations under subsection (1) may –
- (a) authorise HMRC to assess to the best of their judgement amounts payable by a person in respect of apprenticeship levy;
  - (b) make provision about the treatment of amounts so assessed, including provision for treating such amounts as apprenticeship levy payable by the person;
  - (c) make provision about the process of assessments.
- (6) Regulations under subsection (1) may make, in relation to amounts of apprenticeship levy which have been repaid to a person and ought not to have been repaid, any provision which may be made in relation to apprenticeship levy payable by a person.
- (7) Where –
- (a) a repayment of apprenticeship levy has been increased in accordance with section 102 of FA 2009 (repayment interest), and
  - (b) the whole or part of the repayment has been paid to any person but ought not to have been paid to the person,
- any amount by which the repayment paid to the person ought not to have been increased is to be treated for the purposes of regulations made by virtue of subsection (6) as if it were an amount of apprenticeship levy repaid to the person which ought not to have been repaid.
- (8) The provision that may be made under subsection (1) includes –
- (a) provision for the making of decisions (other than relevant assessments) by HMRC as to any matter required to be decided for the purposes of the regulations and for appeals against such decisions;
  - (b) provision for appeals with respect to matters arising under the regulations which would otherwise not be the subject of an appeal;
  - (c) provision for the way in which any matters provided for by the regulations are to be proved.

- (9) In subsection (8) “relevant assessment” means an assessment of amounts payable by a person in respect of apprenticeship levy.
- (10) Regulations under this subsection (1) must not affect any right of appeal to the tribunal which a person would have apart from the regulations.
- (11) In this section (except where the context requires otherwise) references to payments are to payments of, or on account of, apprenticeship levy.

## **9 Recovery from third parties**

- (1) Regulations under section 8(1) may make corresponding provision for the recovery of amounts in respect of apprenticeship levy from persons other than the person liable to pay the amounts by virtue of section 2(3).
- (2) In subsection (1) “corresponding provision” means provision which corresponds to provision made by regulations under the Contributions and Benefits Act for secondary Class 1 contributions in respect of any earnings to be recovered from a person other than the secondary contributor.

## **10 Real time information**

- (1) Regulations under section 8(1) may make provision –
  - (a) for authorising or requiring relevant service providers to supply to HMRC information about payments of apprenticeship levy with respect to which their service is provided, or any information the Commissioners may request about features of the service provided or to be provided with respect to particular payments of apprenticeship levy;
  - (b) for requiring clients to provide relevant service providers with information about payments of apprenticeship levy;
  - (c) for prohibiting or restricting the disclosure, otherwise than to HMRC, of information by a person to whom it was supplied pursuant to a requirement imposed under paragraph (b);
  - (d) for conferring power on the Commissioners to specify by directions circumstances in which provision made by virtue of paragraph (a) or (b) is not to apply in relation to a payment;
  - (e) for requiring relevant service providers to take steps for facilitating the meeting by clients of obligations imposed under paragraph (b);
  - (f) for requiring compliance with any directions the Commissioners may give –
    - (i) specifying, or further specifying, steps for the purposes of paragraph (e), or
    - (ii) specifying information that a person making payments of apprenticeship levy must provide about the method by which the payments are made.
- (2) Directions made under the regulations may make different provision for different cases or different classes of case.
- (3) In this section –
  - “client”, in relation to a relevant service provider, means a person to whom that relevant service provider provides or is to provide a service with respect to a payment of apprenticeship levy;

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“payment of apprenticeship levy” includes a payment on account of apprenticeship levy;

“relevant service provider” means a person who provides or is to provide with respect to payments of apprenticeship levy a service that is specified, or of a description specified, by the regulations.

## **11 Time limits for assessment**

- (1) The general rule is that no assessment under regulations under section 8 may be made more than 4 years after the end of the tax year to which it relates.
- (2) An assessment on a person in a case of loss of apprenticeship levy brought about carelessly by the person may be made at any time not more than 6 years after the end of the tax year to which it relates.
- (3) An assessment on a person in a case falling within subsection (4) may be made at any time not more than 20 years after the end of the tax year to which it relates.
- (4) A case falls within this subsection if it involves a loss of apprenticeship levy –
  - (a) brought about deliberately by the person,
  - (b) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of FA 2004 (obligation of parties to tax avoidance schemes to provide information to HMRC), or
  - (c) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners under section 253 of FA 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.
- (5) An assessment made by virtue of section 8(6) (amounts of levy etc repaid which ought not to have been repaid) is not out of time as a result of subsection (1) if it is made before the end of the tax year following that in which the amount assessed was repaid or paid (as the case may be).
- (6) Subsections (2), (3) and (5) do not limit one another’s application.
- (7) An objection to the making of an assessment on the ground that the time limit for making it has expired may only be made on an appeal against the assessment.
- (8) In subsections (2) and (4) references to a loss brought about by a person include a loss brought about by another person acting on behalf of that person.

## **12 No deduction in respect of levy to be made from earnings**

- (1) A person (“P”) must not –
  - (a) make from any payment of earnings any deduction in respect of apprenticeship levy for which P (or any other person) is liable,
  - (b) otherwise recover the cost, or any part of the cost, of P’s (or any other person’s) liability to apprenticeship levy from any person who is or has been a relevant earner, or
  - (c) enter into any agreement with any person to do anything prohibited by paragraph (a) or (b).

- (2) In this section “relevant earner” means an earner in respect of whom P is or has been liable to pay any secondary Class 1 contributions under Part 1 of the Contributions and Benefits Act.

### **13 Distraint and court proceedings**

- (1) Sections 61 (distraint by collectors: Northern Ireland) and 65 to 68 (court proceedings) of TMA 1970 apply in relation to apprenticeship levy as they apply in relation to income tax.
- (2) See also Chapter 5 of Part 7 of FA 2008 (which makes general provision about payment and enforcement).

#### *Information and penalties*

### **14 Records**

- (1) The Commissioners may by regulations require persons –
  - (a) to keep for purposes connected with apprenticeship levy records of specified matters, and
  - (b) to preserve the records for a specified period.
- (2) A duty under regulations under this section to preserve records may be discharged –
  - (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means, subject to any conditions or exceptions specified in writing by the Commissioners.
- (3) A person who fails to preserve any record in compliance with regulations under subsection (1) is liable to a penalty.
- (4) The total amount of any penalties incurred by a person under this section in respect of failures to comply with obligations relating to any one tax year cannot exceed £3,000.
- (5) No penalty is incurred in respect of a failure to preserve a record if the person satisfies the Commissioners or, on appeal, the tribunal that there is a reasonable excuse for the failure.
- (6) Sections 100 to 102 of TMA 1970 apply to a penalty under this paragraph as they apply to a penalty under section 12B(5) of that Act.
- (7) In this section “specified” means specified or described in the regulations.

### **15 Information and inspection powers**

- (1) In Schedule 36 to FA 2008 (information and inspection powers), in paragraph 63(1), after paragraph (ca) insert –
  - “(cb) apprenticeship levy,”.

### **16 Penalties**

- (1) Schedule 24 to FA 2007 (penalties for errors) is amended in accordance with subsections (2) and (3).

- (2) In the Table in paragraph 1, after the entry relating to accounts in connection with a partnership return insert –

“Apprenticeship levy	Return under regulations under section 8 of FA 2016.”
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- (3) In paragraph 21C, after “capital gains tax)” insert “and amounts payable on account of apprenticeship levy”.
- (4) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended in accordance with subsections (5) to (7).
- (5) In the Table in paragraph 1, after item 4 insert –

“4A	Apprenticeship levy	Return under regulations under section 8 of FA 2016”
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- (6) In paragraph 6B, after “item 4” insert “or 4A”.
- (7) In the italic heading before paragraph 6B, at the end insert “and apprenticeship levy”.
- (8) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended in accordance with subsections (9) to (14).
- (9) In the Table in paragraph 1, after item 4 insert –

“4A	Apprenticeship levy	Amount payable under regulations under section 8 of FA 2016	The date determined by or under regulations under section 8 of FA 2016”
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- (10) In paragraph 3(1)–
- (a) in paragraph (b), for “or 4” substitute “, 4 or 4A”;
  - (b) omit “and” at the end of paragraph (b) and after paragraph (c) insert “and
  - (d) an amount in respect of apprenticeship levy falling within item 4A which is payable by virtue of regulations under section 9 of FA 2016 (recovery from third parties).”
- (11) In paragraph 5(1), for “or 4” substitute “, 4 or 4A”.
- (12) In paragraph 5(2), for “or (c)” substitute “, (c) or (d).”
- (13) In paragraph 6(2), after paragraph (b) insert –
- “(ba) a payment under regulations under section 8 of FA 2016 of an amount in respect of apprenticeship levy payable in relation to the tax year;”.
- (14) In the italic heading before paragraph 5, at the end insert “etc.”.

- (15) The amendments made by subsections (1) to (3) of this section come into force in accordance with provision made by the Treasury by regulations.
- (16) In subsections (2) and (4) of section 106 of FA 2009 (penalties for failure to make returns: commencement etc) references to Schedule 55 to that Act have effect as references to that Schedule as amended by subsections (4) to (7) of this section.
- (17) Schedule 56 to FA 2009, as amended by this section, is taken to come into force for the purposes of apprenticeship levy on the date on which this Act is passed.

### *Appeals*

## **17 Appeals**

- (1) An appeal may be brought against an assessment of apprenticeship levy or other amounts under regulations under section 8.
- (2) Notice of appeal must be given –
  - (a) in writing,
  - (b) within the period of 30 days beginning with the date on which notice of the assessment was given,
  - (c) to the officer of Revenue and Customs by whom notice of the assessment was given.
- (3) Part 5 of TMA 1970 (appeals and other proceedings) applies in relation to an appeal under this section as it applies in relation to an appeal against an assessment to income tax.

### *General*

## **18 Provisional collection of apprenticeship levy**

In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after “diverted profits tax,” insert “the apprenticeship levy,”.

## **19 Crown application**

This Part binds the Crown.

## **20 Charities which are “connected” with one another**

- (1) Two charities are connected with one another for the purposes of section 5(1) if –
  - (a) they are connected with one another in accordance with section 993 of ITA 2007 (meaning of “connected persons”), and
  - (b) their purposes and activities are the same or substantially similar.
- (2) In the application of section 993 of ITA 2007 for the purposes of subsection (1)(a) –
  - (a) a charity which is a trust is to be treated as if it were a company (and accordingly a person), including in this subsection;

- 
- (b) a charity which is a trust has “control” of another person if the trustees (in their capacity as trustees of the charity) have, or any of them has, control of the person;
  - (c) a person (other than a charity regulator) has “control” of a charity which is a trust if –
    - (i) the person is a trustee of the charity and some or all of the powers of the trustees of the charity could be exercised by the person acting alone or by the person acting together with any other persons who are trustees of the charity and who are connected with the person,
    - (ii) the person, alone or together with other persons, has power to appoint or remove a trustee of the charity, or
    - (iii) the person, alone or together with other persons, has any power of approval or direction in relation to the carrying out by the trustees of any of their functions.
- (3) For the purposes of section 5(1) a charity which is a trust is also connected with another charity which is a trust if at least half of the trustees of one of the charities are –
- (a) trustees of the other charity,
  - (b) persons who are connected with persons who are trustees of the other charity, or
  - (c) a combination of both,
- and the charities’ purposes and activities are the same or substantially similar.
- (4) In determining if a person is connected with another person for the purposes of subsection (2)(c)(i) or (3)(b), apply section 993 of ITA 2007 with the omission of subsection (3) of that section (and without the modifications in subsection (2) above).
- (5) If a charity (“A”) controls a company (“B”) which, apart from this subsection, would not be a charity –
- (a) B is to be treated as if it were a charity for the purposes of this Part, and
  - (b) A and B are connected with one another for the purposes of section 5(1).
- (6) In subsection (5) “control” has the same meaning as in Part 10 of CTA 2010 (see sections 450 and 451 of that Act) (and a limited liability partnership is to be treated as a company for the purposes of that Part as applied by this subsection).
- (7) For this purpose, where under section 450 of that Act “C” is a limited liability partnership, subsection (3) of that section has effect as if before (a) there were inserted –
- “(za) rights to a share of more than half the assets, or of more than half the income, of C,”.

## 21 Connection between charities: further provision

- (1) This section applies if –
- (a) a charity (“A”) is connected with another charity (“B”) for the purposes of section 5(1), and
  - (b) B is connected with another charity (“C”) for the purposes of section 5(1).

- (2) A and C are also connected with one another for the purposes of section 5(1) (if that would not otherwise be the case).
- (3) In subsection (1) –
  - (a) in paragraph (a) the reference to a charity being connected with another charity for the purposes of section 5(1) is to that charity being so connected by virtue of section 20 or this section, and
  - (b) in paragraph (b) the reference to a charity being connected with another charity for the purposes of section 5(1) is to that charity being so connected by virtue of section 20.

## **22 General interpretation**

- (1) In this Part (except where the contrary is indicated, expressly or by implication), expressions which are also used in Part 1 of the Contributions and Benefits Act have the same meaning as in that Part.
- (2) In this Part –
  - “charity” has the meaning given by section 5(4) and (5);
  - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 or (as the case requires) the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - “HMRC” means Her Majesty’s Revenue and Customs;
  - “tax year” means the 12 months beginning with 6 April in 2017 or any subsequent year;
  - “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

## **23 Regulations**

- (1) Regulations under this Part –
  - (a) may make different provision for different purposes,
  - (b) may include incidental, consequential, supplementary or transitional provision.
- (2) Regulations under this Part are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Subsection (3) does not apply to a statutory instrument containing only regulations under section 16(15).