

## Clause 1: Enterprise management incentives

### Summary

1. This clause substitutes a new section 107 for the existing section 107 of the Finance Act 2020. The existing section 107 introduced a time-limited exception to the disqualifying event rules so that existing participants of enterprise management incentives (EMI) schemes are not forced to exercise their options much earlier than planned. New section 107 extends the time-limited exception to new EMI share options granted on or after 19 March 2020. The modifications take effect from 19 March 2020 and will come to an end on 5 April 2021. The clause also includes a provision for HM Treasury to extend the exception for a further twelve months by regulations if the coronavirus pandemic has not ended by April 2021.

### Details of the clause

2. Clause 1 substitutes a new section 107 for the existing section 107 of the Finance Act 2020.
3. Subsection 1 of new section 107 introduces modifications to Schedule 5 to Income Tax (Earnings and Pensions) Act 2003 (ITEPA).
4. Subsection 2 of new section 107 modifies paragraph 26 of Schedule 5 to ITEPA. The modification provides for a new exception, “not being required to work for reasons connected to coronavirus”, which can apply so that employees continue to meet the committed time requirements for EMI. “Coronavirus” is defined as having the meaning given by the Coronavirus Act 2020.
5. Subsection 3 of new section 107 amends paragraph 27 of Schedule 5 to ITEPA in order to include the time limited exception, at paragraph 26 at subsection (3) to the working time requirement for employees.
6. Subsection 4 of new section 107 modifies Section 535 of ITEPA 2003 to provide that the new exception applies to the “reckonable time in relevant employment” requirement for EMI schemes.
7. Subsection 5 of new section 107 provides that the modifications made by the clause have effect from 19 March and will come to an end on 5 April 2021.
8. Subsection 6 of new section 107 provides a provision for HM Treasury to extend the exception for a further twelve months to 5 April 2022 by making regulations.

### Background note

9. Those participating in an EMI scheme are required to meet the “working time

requirement”. This means that the employee’s time committed to the company must be equal to or exceed the statutory threshold of 25 hours per week or if less, 75% of their working time.

10. This clause ensures that new and existing participants of EMI schemes do not suffer a disqualifying event and lose tax advantages as a result of taking unpaid leave, being furloughed or working reduced hours because of coronavirus.
11. The clause ensure that participants are not forced to exercise their options earlier than planned and, also guarantees that participants can be granted options while taking unpaid leave, working reduced hours or while furloughed because of coronavirus.
12. If you have any questions about this change, or comments on the legislation, please contact the HMRC Income Tax team at [incometax.structure@hmrc.gov.uk](mailto:incometax.structure@hmrc.gov.uk).