

**BOARD OF INLAND REVENUE
RESOLUTION 30**

**FINANCE BILL 2003
REPORT
SCHEDULE 22**

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*SC 114	278	6
*SC 115	279	33
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*SC 117	310	9
*SC 118	310	20
*SC 119	314	8
*SC 120	321	2

Mr Chancellor of the Exchequer

Amendment 114

Page **278**, line **6** [*Schedule 22*], leave out ‘In a case within subsection (1)(a),’.

Amendment 115

Page **279**, line **33** [*Schedule 22*], leave out ‘428(3)’ and insert ‘428(9)’.

Amendment 116

Page **310**, line **7** [*Schedule 22*], after ‘sections’ insert ‘421(2) and’.

Amendment 117

Page **310**, line **9** [*Schedule 22*], after ‘for’ insert ‘the acquisition of’.

Amendment 118

Page **310**, line **20** [*Schedule 22*], at end insert –

“the employer (in Chapter 5 of part 7) section 471(5)”,’.

Amendment 119

Page **314**, line **8** [*Schedule 22*], leave out from ‘Table,’ to ‘insert’ in line 9 and insert ‘at the appropriate place’.

Amendment 120

Page **321**, line **2** [*Schedule 22*], leave out ‘428(3) and (6)’ and insert ‘428(6) and (9)’.

EXPLANATORY NOTE

SUMMARY

1. The purpose of amendment 114 is to ensure that the correct amount of tax is charged on a reduction in the value of restricted employment-related securities where that reduction is the result of artificial transactions.
2. Amendments 115 to 120 correct minor drafting errors.

DETAILS

3. Amendment 114 - Section 446E is an anti-avoidance provision which ensures that where the value of employment-related securities is artificially reduced by non-commercial transactions the amount of that reduction is taxed.
4. Section 446E deems the market value of the securities to be what it would have been if the artificial transaction had not taken place.
5. This deemed market value is then used to calculate the taxable amount when restrictions are lifted, varied or the securities sold while still subject to restrictions or, if earlier, at the 5th April following the artificial transaction.
6. The amendment corrects an erroneous cross-reference, which if not corrected would result in the market value not being adjusted in respect of 5th April chargeable events, severely weakening the anti-avoidance effect.
7. Amendments 115 and 120 are a consequence of Government Amendments 170 and 173 made in Standing Committee which removed S428(3) in new Chapter 2, Part 7 of the Income Tax (Earnings & Pensions) Act 2003 (ITEPA) and inserted a new S428(9). Unfortunately, consequential changes to two cross-references to S428(3) elsewhere in Schedule 22 were not made at that time.

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8. Amendment 115 corrects one of the cross-references to ensure that an employee is taxed on the right amount. If the reference to 428(3) remained in place, the employee would pay too little tax.
9. Amendment 120 makes a similar change in new Part 4 of Schedule 23, introduced by Schedule 22. It ensures that in the unfortunate event that an employee dies before being fully taxed in respect of restricted shares the employing company still obtains the right amount of Corporation Tax relief under Schedule 23.
10. Amendments 116, 117, and 118 are very minor drafting corrections to ITEPA Indices relating to the new rules being introduced by Schedule 22. They do not change how the new rules work, but will ensure that the reader is given the right signposts.
11. Amendment 119 corrects a very minor error in the positioning of a Schedule 22 element in a table in S98 Taxes Management Act 1970. It provides clarity by correctly re-ordering the references.