

## CHAPTER 3 Expenses allowances and provisions relating to the general benefits in kind charge

Interpretation ). ITA67 s119 and s122 116.—(1) In this Chapter—

“business premises”, in relation to a body corporate, includes all premises occupied by that body for the purpose of any trade carried on by it and, except when the reference is expressly to premises which include living accommodation, includes so much of any such premises so occupied as is used wholly or mainly as living accommodation for any of the directors of the body corporate or for any persons employed by the body corporate in any employment to which this Chapter applies;

“control”, in relation to a body corporate, means the power of a person to secure—

(a) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or

(b) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;

“director” means—

(a) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or body,

(b) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person,

(c) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate,

and includes any person in accordance with whose directions or instructions the directors of a body corporate, defined in accordance with the preceding provisions of this definition, are accustomed to act, but a person shall not, within the meaning of this definition, be deemed to be a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act by reason only that those directors act on advice given by the person in a professional capacity;

“employment” means an employment such that any emoluments of the employment would be assessed under Schedule E, and references to persons employed by, or employees of, a body corporate include any person who takes part in the management of the affairs of the body corporate and is not a director of the body corporate.

(2) Any reference in this Chapter to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee personally, be construed as including a reference to anything provided for the spouse, family, servants, dependants or guests of that director or employee, and the reference in the definition of “business premises” to living accommodation for directors or employees shall be construed accordingly.

(3) (a) Subject to subsection (4) and paragraphs (b) and (c), the employments to which this Chapter applies shall be employments the emoluments of which, estimated for the year of assessment in question according to the Income Tax Acts and on the basis that they are employments to which this Chapter applies, and without any deduction being made under section 114 in respect of money expended in performing the duties of those employments, are £1,500 or more.

(b) Where a person is employed in 2 or more employments by the same body corporate and the total of the emoluments of those employments for the year of assessment in question estimated in accordance with paragraph (a) is £1,500 or more, all those employments shall be treated as employments to which this Chapter applies.

(c) Where a person is a director of a body corporate, all employments in which the person is employed by the body corporate shall be treated as employments to which this Chapter applies.

(4) All the directors of, and persons employed by, a body corporate over which another body corporate has control shall be treated for the purposes of paragraphs (b) and (c) of subsection (3) (but not for any other purpose) as if they were directors of that other body corporate or, as the case may be, as if the employment were an employment by that other body corporate.