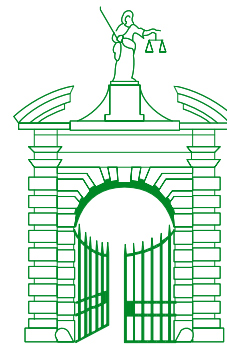


Revenue



**A
Guide
to
Savings-Related Share Option Schemes**



13/7/2009

Savings-Related Share Option Schemes

This booklet describes the provisions of Chapter 3, Part 17, Taxes Consolidation Act, 1997 and Schedule 12A of that Act, relating to savings-related share option schemes and includes amendments up to the Finance (No. 2) Act 2008.

Specimen scheme rules are included in Appendix 1.

Specimen scheme documents are included in Appendix 2.

Specimen annual Return of Information Form is included in Appendix 3.

These notes are for guidance only and reflect the tax position at the time of writing. They should not be taken as overriding the legal provisions or requirements.

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Chapter 1

Introduction

This chapter sets out the tax treatment of share options in general, and sets out the reliefs available if rights are granted under savings-related share option schemes.

1.1 Income Tax treatment of share options

A share option arises when a company grants to its employees or directors a right to acquire shares in that company or (certain other companies) at a pre-determined price.

Income tax is charged under Schedule E, (in respect of rights granted on or after 6 April 1986), on any gain that arises when the right is exercised, assigned or released. The amount of the gain chargeable is the excess of the market value of the shares at the time of exercise, assignment or release, over the cost of acquisition of the shares. Where a right need not be exercised for more than 7 years, an income tax charge will also arise on the date the right is granted. Any income tax so charged on the grant of the right is deductible from any income tax which is subsequently charged when the right is exercised, assigned or released.

1.2 Capital Gains Tax treatment of share options

The ordinary capital gains tax rules apply to the calculation of gains and losses on the disposal of shares acquired through the exercise of a right.

The cost of the shares for capital gains tax purposes is:

- the cost paid for the shares on the exercise of the right, plus
- the cost of the right, if any, plus
- any amount charged to income tax under Schedule E.

Indexation is available subject to the normal rules, by reference to the date the expenditure is incurred.

In the case of an amount charged to income tax under Schedule E that date may be taken to be the date the tax is paid.

1.3 Savings-Related Share Option Scheme

The Finance Act, 1999, introduced savings-related share option schemes. Income tax relief will be due where the share right is granted and exercised in accordance with a savings-related share option scheme, approved by the Revenue Commissioners in accordance with Schedule 12A, Taxes Consolidation Act, 1997, unless the right is exercised within 3 years of the date the right is obtained (with some exceptions see paragraphs 3.14, 3.15 and 3.16.2).

Basically there are two elements to a scheme :

- (a) a save-as-you earn certified contractual savings scheme, and
- (b) an approved savings-related share option scheme.

1.3.1 Save-As-You-Earn Certified Contractual Savings Scheme

A save-as-you-earn contractual savings scheme will be certified by the Revenue Commissioners having regard to specifications laid down by the Minister for Finance. This is available for downloading from the Department of Finance's website: <http://www.finance.gov.ie/documents/publications/taxation/SAYEsavscheme08.pdf>

The save-as-you-earn contractual savings scheme must be used only in conjunction with the savings-related share option scheme. Employees may save with a qualifying institution under a save-as-you-earn contractual savings scheme, for a period of three or five years. The interest and/or bonus paid on these savings will be exempt from income tax. Deposit Interest Retention Tax (DIRT), where relevant will not be deductible from any interest or bonus paid.

The maximum monthly savings allowable is €500 and the minimum amount is €12.

Monthly contributions to the save-as-you-earn contractual savings scheme must be sufficient to secure, as nearly as possible, repayment of an amount equal to the amount required to pay for as many shares as the individual has the right to acquire.

1.3.2 Savings-Related Share Option Scheme

A savings-related share option scheme, qualifying for approval will be a scheme,

- set up by an employer under which all employees and full-time directors are given a right to purchase shares at a fixed price at a particular time, (which cannot be less than 75% of the market value at the time the right is given),
- where the shares purchased by the employee as a result of that right are financed only by way of amounts saved by the employee, (together with any interest or bonus paid), through a save-as-you-earn contractual savings scheme, and
- made available to all employees at the same time, on similar terms, (subject to a maximum service requirement of three years).

1.3.3 Capital Gains Tax treatment of approved Savings-Related Share Option Schemes

The capital gains tax treatment of shares acquired under an approved savings-related share option scheme will, in general, follow the rules set out in paragraph 1.2. The base cost for capital gains tax purposes of shares acquired under a savings-related share option scheme is the actual price paid for the shares at the date of exercise.

1.4 Costs of setting up an approved scheme

The costs a company incurs on or after 6 April 1999, in establishing a savings-related share option scheme which is approved by the Revenue Commissioners in accordance with the provisions of Schedule 12A, Taxes Consolidation Act, 1997, are allowable as a deduction in computing the company's profits for corporation tax.

The deduction is allowable for the accounting period in which the expenditure is incurred, except where the scheme is approved more than nine months after the end of that period. In such circumstances the deduction is allowed for the accounting period in which approval is given.

1.5 A deduction is not available in any case where rights are granted before the scheme has been approved by the Revenue Commissioners.

1.6 General

The main feature of an approved savings-related share option scheme is that the shares acquired by exercising a right must be paid for out of the proceeds of a save-as-you-earn certified contractual savings scheme. The rights must not normally be exercisable earlier than the time repayments under the save-as-you-earn certified contractual savings scheme become due.

1.7 Specimen rules and documents

A set of scheme rules designed to meet the requirements for approval is shown in Appendix 1. It is intended only as an illustration of the type of framework which companies might wish to adopt.

In addition to a set of rules, a scheme will include additional documents such as a Letter of Invitation, an Application Form, an Option Certificate, an Employee Booklet and a Notice of Exercise of Option. Examples of these documents are shown in Appendix 2.

Companies should consider their own particular needs carefully and obtain professional advice where necessary.

Chapter 2

2.1 Applying for approval of a scheme

All applications for approval of savings-related share option schemes and all enquires about approval of schemes should be made to: Office of the Revenue Commissioners, Employee Share Scheme Section, Personal Income Tax Branch 1, Income & Capital Taxes Division, Stamping Building, Dublin Castle, Dublin 2.

Telephone +353 1 6475 000

2.2 A company proposing to establish a savings-related share option scheme may wish to obtain an opinion on a scheme in advance of a formal application for approval. The Revenue Commissioners will comment on draft documents and, if necessary, discuss points of difficulty.

2.3 In the first instance in the case of an unquoted company whose shares are to be used for the purposes of the scheme, a copy of the Memorandum and Articles of Association of the company and a copy of any Shareholders Agreements that exist should be submitted.

2.4 The following information should be provided in relation to an application for approval of a scheme :

- a copy of the rules of the scheme (a certified copy of the rules will be required for formal approval),
- a copy of the Memorandum and Articles of Association of the company whose shares are being used for the purposes of the scheme,
- where the shares to be used for the scheme are in an unquoted company a copy of the Shareholders Agreement for the company if one exists,
- a declaration that the shares to be used in the scheme satisfy the requirements of paragraphs 11-15 of Schedule 12A, Taxes Consolidation Act, 1997, with a statement as to how the requirements of paragraphs 11 and 12 are met. The declaration should be on company headed paper and be signed by the company secretary of the company whose shares are to be used,
- where the company concerned is a member of a group of companies, confirmation that the scheme does not and would not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of higher or the highest levels of remuneration,
- copies of all documents that will be issued to participants in the scheme i.e. Letter of Invitation, Application Form, Option Certificate, Notice of Exercise of Option, Employee Booklet etc.,
- a copy of save-as-you-earn certified contractual savings scheme Application Form together with a copy of the letter of certification issued by the Revenue Commissioners approving the savings institutions save-as-you-earn certified contractual savings scheme (both are available from the qualifying institution),
- a copy of the company resolution establishing the scheme,
- a copy of the company resolution nominating the participating companies,
- the name and address of the person who will be responsible for submitting the annual Return of Information,

- the income tax and corporation tax reference numbers for the company and any participating companies, and
- where a relevant body (Trust or company) is to be used to purchase and retain the shares for the scheme, a copy of the Trust document or Memorandum and Articles of Association for the company concerned as appropriate.

2.5 If a company's application for approval is refused there is a right of appeal to the Appeal Commissioners.

Chapter 3

3.1 Requirements for approval

The conditions that have to be satisfied by an approved scheme can be classified as follows

- general
- relating to the participants
- relating to the shares
- relating to the exercise of rights

3.2 General conditions

The share option scheme must allow employees to obtain rights to acquire shares which satisfy the conditions described in paragraph 3.17.

3.3 The rights obtained under the scheme must not be transferable, except that, if a participant dies, the rights may pass into the estate (see paragraph 3.14).

3.4 The scheme must not contain features which are neither essential nor reasonably incidental to the purpose of providing for employees and directors benefits in the nature of rights to acquire shares. It must not contain any features which would have the effect of discouraging employees or directors from participating in the scheme.

3.5 Shares must be paid for with monies not exceeding the amount of the repayments, including any interest or bonus made under a save-as-you-earn certified contractual savings scheme which has been approved by the Revenue Commissioners for this specific purpose.

3.6 Repayments under the save-as-you-earn contractual savings scheme may be taken as including or not including a bonus but the question of what is to be included must be determined at the time the rights under the scheme are obtained.

The time at which the repayments are due (i.e. the bonus date) must be taken as either the earliest date on which a bonus is payable (3 years/5 years) or, the earliest date on which the maximum bonus is payable (7 years).

3.7 Contributions made by a participant to the save-as-you-earn certified contractual savings scheme must be sufficient to secure, as nearly as possible, the repayment of an amount equal to the sum required to pay for as many shares as the option gives the right to acquire. Total contributions made by one participant to savings schemes linked to approved savings-related share option schemes must not, in aggregate, exceed €500 per month. The amount of the repayment is to be determined as set out in paragraph 3.6 above.

3.8 If a company setting up the scheme has control of another company or companies, the scheme may be extended to all or any of the companies over which it has control. This type of scheme is called a group scheme. A participating company in a group scheme is the company which established the scheme or a company over which the company has control and to which the scheme extends. Where the company setting up the scheme is a member of a group of companies, the scheme must not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of the higher or highest level of remuneration.

3.9 Conditions relating to participants

Participation in the scheme must be open at any time to every person who

- is then an employee or a full-time director of the company which has established the scheme or, in the case of a group scheme, a participating company, and
- has been such an employee or director at all times during a qualifying period not exceeding three years ending at that time, and
- is chargeable to tax under Schedule E in respect of his/her office or employment.

Participation refers to both the obtaining of rights to acquire shares and the exercise of those rights.

“Full-time” director is a director who is required to devote substantially the whole of his time to the service of the company.

3.10 All participants satisfying the conditions of the preceding paragraph must be eligible to participate on similar terms, and all persons who do participate must do so on similar terms. The expression similar terms covers not only the share price and the circumstances in which the rights can be exercised but also the number of shares for which the right is granted. The fact that the number of shares may vary in accordance with such criteria as level of remuneration or the length of service will not be regarded as meaning that the participants are not eligible to participate on similar terms. The question as to whether a scheme is open to all participants on similar terms can only be fully determined by reference to the rules of the particular scheme.

Whilst all qualifying directors and employees must be eligible to participate under the approved scheme, participation in the scheme is voluntary and there is nothing to prevent such persons choosing not to participate.

3.11 The scheme must not allow an individual to participate if at any time, or at any time within the previous twelve months such individual had a material interest in a close company which is either the company whose shares may be acquired pursuant to the exercise of the rights obtained under the scheme, or a company having control of that company, or is a member of a consortium which owns that company. For the purposes of the scheme a person will have a material interest in a company if he/she owns more than 15% of the ordinary share capital of the company.

The reference in the following paragraph to the shares attributable to an individual are to be taken into account for the material interest test in determining whether an individual’s rights to acquire shares exceeds a particular percentage of the company’s ordinary share capital.

If shares attributed to an individual consist of or include shares over which that individual has a right to acquire, and the circumstances are such that if the right was exercised, the shares acquired would be new shares which the company has to issue in the event of exercise of the right then, for the purposes of determining, prior to the exercise of that right, whether the shares attributed to the individual exceeds a particular percentage of the ordinary share capital, such ordinary share capital is to be increased by the number of new shares referred to above.

3.12 Conditions relating to exercise of rights

The scheme must provide for the scheme shares to be paid for with moneys not exceeding the amount of repayments made and any interest or bonus paid under a certified save-as-you-earn contractual savings scheme.

3.13 Subject to the exceptions in the following paragraphs, the rights obtained under the scheme must not be capable of being exercised before the bonus date, (i.e. the date on which repayments under the save-as-you-earn certified contractual savings scheme are due to be paid) and not later than 6 months after the bonus date. At the time the rights are obtained, the individual must decide whether or not repayments to be used to buy the shares should include the bonus and if repayments are to include the bonus, whether it is to be the maximum bonus or any other bonus payable.

3.14 If a person who obtained rights to acquire shares dies before the bonus date, the scheme must provide for the exercise of such rights within the twelve months following the date of death. If the death occurs within the six months after the bonus date, the scheme must provide for the exercise of such rights within the twelve months following the bonus date.

3.15 If a person who has obtained rights to acquire shares ceases to hold the eligible office or employment due to

- injury
- disability
- redundancy (within the meaning of Redundancy Payments Act, 1967 to 1991)
- retirement on reaching the Specified Age (an age must be stated in the rules of the scheme) which must be between 60 and pensionable age within the meaning of section 2 of the Social Welfare (Consolidation) Act, 1993, (currently 66 years of age)

the scheme must provide for the exercise of such rights within six months following the cessation.

3.16

3.16.1 If a person who has obtained rights to acquire shares ceases to hold the eligible office or employment in circumstances other than those listed in paragraph 3.15 and the rights have been held for more than three years prior to the date of cessation, the rules may allow the rights to be exercised within the six months following that date (where the scheme permits exercise in these circumstances the events allowed for exercise must apply to all participants). If the rights have been held for less than 3 years the scheme must provide for the rights to lapse.

3.16.2 If a person continues to work after reaching the Specified Age that person may exercise his/her rights within six months of reaching the Specified Age.

3.16.3 If any person obtains control of a company, whose shares include scheme shares, as a result of making-

(a) a general offer to acquire the whole of the issued ordinary share capital of the company which is made on a condition such that if it is satisfied the person making the offer will have control of the company or

(b) a general offer to acquire all the shares in the company which are the same class as the scheme shares

then rights obtained under the scheme to acquire shares in the company may be exercised within six months of the time when the person making the offer has obtained control of the company, and any condition subject to which the offer is made, has been satisfied.

• If, under section 201 of the Companies Act, 1963, the Court sanctions a compromise or arrangement proposed for the purposes of, or in connection with, a plan for reconstructing a company whose shares are scheme shares, or its amalgamation with any other company or companies, rights obtained under the savings-related share option scheme to acquire shares in the

company may be exercised within six months of the court sanctioning the compromise or arrangement.

- If any person becomes bound or entitled under section 204 of the Companies Act, 1963, to acquire shares in a company whose shares are scheme shares, rights obtained under the scheme to acquire shares in the company may be exercised at any time that person remains so bound or entitled.
- If a company whose shares are scheme shares passes a resolution for voluntary winding up, rights obtained under a scheme to acquire shares in the company may be exercised within six months of the passing of the resolution.

Where any of the events of this paragraph 3.16.3, or paragraphs 3.16.4 or 3.16.5 are included in a scheme only the circumstances and periods allowed for exercise as set out in paragraph 22, Schedule 12A, Taxes Consolidation Act 1997 will be allowed. No other circumstance will be allowed and no shorter or longer period will be allowed for exercise.

3.16.4 If a person ceases to hold an eligible office or employment because ;

(a) that office or employment is in a company of which the grantor (the company which established the scheme) ceases to have control, or

(b) that office or employment relates to a business or part of a business which is transferred to a person who is neither an associated company of the grantor nor a company of which the grantor has control,

rights under the scheme held by that person may be exercised within six months of cessation.

3.16.5 If at the bonus date, a person who has obtained rights under the scheme holds an office or employment in a company which is not a participating company but which is

(a) an Associated Company of the grantor, or

(b) a company of which the grantor has control

those rights may be exercised within six months of the bonus date.

“Associated Company” has the meaning assigned to it by paragraph 1(1) of Schedule 12A, Taxes Consolidation Act, 1997.

3.16.6 For the purposes of paragraph 3.16 a person shall be deemed to have control of a company if he or she and others acting in concert have together obtained control of it.

Rights obtained by a person under a scheme must not be capable of being transferred by that person or of being exercised later than six months after the bonus date except as outlined in paragraph 3.14.

For the purposes of paragraphs 3.15, 3.16.1 and 3.16.4, no person shall be treated as ceasing to hold office or employment until that person ceases to hold an office or employment in the company which established the scheme or in any company controlled by that company or in an Associated Company.

3.17 Conditions relating to shares

The scheme shares shall form part of the ordinary share capital of

(a) the company which established the scheme, or

(b) a company which has control of the company establishing the scheme, or

(c) a company which either is, or has control of, a company which

- (i) is a member of a consortium which owns either the company which established the scheme or a company having control of that company,
and
- (ii) beneficially owns not less than 15 per cent of the ordinary share capital of the company so owned.

Scheme shares shall be

(a) shares of a class quoted on a recognised stock exchange, or

(b) shares in a company not under the control of another company, or

(c) shares in a company which is under the control of a company (other than a close company or a company which would be a close company if resident in the State) whose shares are quoted on a recognised stock exchange.

In addition the shares must be

(a) fully paid up,

(b) not redeemable, and

(c) not subject to any restriction other than restrictions which attach to all shares of the same class.

The shares may be subject to a restriction imposed by the company's Articles of Association which requires all shares held by directors or employees of the company or of any other company of which it has control to be disposed of when they leave the company and subsequently when shares are acquired as a result of rights exercised after directors and employees have left the company or by their personal representatives.

The disposal must be by way of sale for money and on terms specified in the Articles of Association. The same terms for disposal must apply to all shares of the same class.

In deciding if scheme shares which are or are to be acquired by any participant are subject to any restriction, any contract, agreement, arrangement or condition shall be regarded as a restriction, if it

- restricts freedom to dispose of
 - the shares
 - any interest in the shares, or
 - the proceeds from the sale of the shares,
- restricts freedom to exercise any right conferred by the shares,
- would cause any disadvantage to the participant, or any Connected Person, if shares were disposed of or any right conferred by them was exercised.

Any provisions similar in purpose and effect to the provisions of the Model Code set out in the Listing rules of the Irish Stock Exchange will not be regarded as a restriction for the purposes of this paragraph.

“Connected Persons” has the meaning assigned to it in Section 10, Taxes Consolidation Act, 1997.

3.18 Except where the scheme shares are in a company whose ordinary share capital consists of shares of one class only, the majority of the issued shares of the same class must be held by persons other

than

- persons who acquired their shares in pursuance of a right conferred on them or an opportunity afforded to them as a director or employee of the company setting up the scheme or any other company and not as a result of an offer to the public
- trustees holding shares on behalf of persons who acquired their beneficial interests in the shares in pursuance of such a right or opportunity as is mentioned above
- in a case where shares are not quoted on a recognised Stock Exchange but are shares in a company which is under the control of another company whose shares are quoted on a recognised Stock Exchange, companies which have control of the company whose shares are in question or of which that company is an associated company,

3.19 Approval Refused

If a company's application for approval is refused, there is a right of appeal to the Appeal Commissioners. Notice of appeal must be given in writing to the Revenue Commissioners, within thirty days of the date on which the company is notified of the Revenue Commissioners decision.

Chapter 4

4.1 Acquisition of Shares

The scheme must provide that contributions made by a participant under a save-as-you-earn certified contractual savings scheme must be sufficient to secure, as nearly as possible, the repayment of an amount equal to the sum required to pay for as many shares as the option gives the person the right to acquire (repayment being determined by reference to paragraph 3.6).

The scheme must not allow the total contributions made by one participant to exceed €500 per month nor impose a minimum which exceeds €12 per month. (These amounts may be amended by order of the Minister for Finance.)

4.2 Share Price

The price at which shares may be acquired by the exercise of a right obtained under the scheme -

(a) must be stated at the time the right is obtained,
and

(b) must not be manifestly less than 75% of the market value of the shares of the same class at that time or, if the Revenue Commissioners and the company which has established the scheme agree in writing, at such earlier time or times as may be provided for in the agreement (within 30 days of the grant of the right),

but the scheme may provide for such variation of the price as may be necessary to take account of any variation in the share capital of which the scheme shares form part provided the revised subscription price is not less than 75% of the market value of the shares.

4.3 If the shares to be used in the scheme are not quoted on a recognised stock exchange the market value of the shares must be agreed with the Revenue Commissioners before the grant of rights. The following information should be submitted to enable the Revenue Commissioners agree a valuation

- a copy of the company accounts for the last three financial years ending prior to the date of grant and any subsequent interim statement or declaration of interim dividend for the company's current financial year,
- an estimate of the value placed on the shares with a brief explanation of how it is arrived at,
- details of any recent arm's length transactions in the shares, and
- the number of shares over which rights are to be granted at the relevant date of grant and the number of participants who will participate in the scheme on that occasion.

Chapter 5

Take-overs and Mergers

- 5.1** Approved schemes may contain provisions to permit an option holder to exchange approved rights in certain circumstances, if another company obtains control of the company whose shares are being used in the approved scheme, or becomes bound or entitled under section 204, of the Companies Act, 1963, to acquire such shares, or obtains control of a company whose shares are scheme shares in pursuance of a compromise or arrangement sanctioned by the Court under section 201, of the Companies Act, 1963.

The new rights, relating to shares in the new controlling company, which satisfy the requirements of paragraphs 11 to 15, Schedule 12A, Taxes Consolidation Act, 1997, (see paragraph 3.17) must be capable of being exercised in the same manner as the old rights. The value and aggregate subscription price of the new rights on acquisition must be exactly the same as the value and aggregate subscription price of the old right on disposal.

For the purposes of section 519A and Schedule 12A, Taxes Consolidation Act, 1997 and for the purposes of the continued application of the provisions of the scheme the new rights shall be regarded as acquired at the same time as the old rights.

Chapter 6

Withdrawal of approval

- 6.1** The Revenue Commissioners may withdraw their approval of a savings-related share option scheme where any of the requirements of Schedule 12A, Taxes Consolidation Act, 1997, cease to be complied with or where the grantor fails to provide information as requested by the Revenue Commissioners.
- 6.2** If rights obtained before the withdrawal of approval are exercised after withdrawal, the tax relief available by virtue of section 519A(3), Taxes Consolidation Act, 1997, shall continue to apply as if the scheme was still approved.
- 6.3** An unapproved alteration of an approved scheme will invalidate the approval with effect from the date of the alteration.
- 6.4** Where the Revenue Commissioners refuse to approve a scheme, refuse to approve an alteration in a scheme, withdraw approval of a scheme or refuse to decide that a condition subject to which approval was given is satisfied there is a right of appeal to the Appeal Commissioners.

Notice of appeal must be given in writing to the Revenue Commissioners within thirty days of the date on which the company is notified of the Revenue Commissioners decision. The appeal will be heard by the Appeal Commissioners as if it were an appeal against an assessment to income tax and all the provisions of the Income tax Acts relating to such an appeal will apply, with any necessary modifications.

Chapter 7

Information

- 7.1** The Revenue Commissioners may by notice in writing require a person to furnish them, within 30 days, such information as they consider necessary to enable them to determine whether to approve a scheme or to withdraw approval of a scheme, to determine a participants liability to tax under a scheme, or to enable them administer the scheme, and any alteration of the terms of a scheme.

Appendix 1.

Specimen Scheme Rules

General Notes

A specimen set of Rules designed to meet the requirements for approval under Chapter 3, Part 17, Taxes Consolidation Act, 1997, and Schedule 12A of that Act are set out hereunder. The specimen documents are in respect of a single company scheme, however where the company concerned has control of another company or companies, a group scheme can be put in place to extend to all or any of the companies of which the company establishing the scheme has control but such a scheme must not have the effect of conferring benefits wholly or mainly on directors of companies in the group or on those employees of companies in the group who are in receipt of higher or the highest levels of remuneration.

The purpose of the specimen Rules is to illustrate the type of framework which companies might wish to adopt and operate.

There is considerable scope for variation to meet the particular requirements of the company. Companies should consider their own particular needs and be guided by their professional advisors.

1 Definitions

1.1 In these Rules the following words and expressions shall have the following meanings :

“Act”	the Taxes Consolidation Act, 1997,
“Adoption Date”	the date on which the Scheme is adopted by the Company in general meeting,
“Announcement Date”	the date on which the annual or half yearly results are announced,
“Appropriate Period”	has the meaning given to it in paragraph 16(2) of Schedule 12A, to the Act,
“Associated Company”	has the meaning assigned to it by paragraph 1(1) of Schedule 12A, to the Act,
“Auditors”	the auditors for the time being of the Company or in the event of there being joint auditors such one of them as the Company shall select.
“Board”	the Board of Directors of the Company or, except in Rule 10.4, a duly constituted committee thereof,
“Bonus”	the bonus paid on the completion of the Savings Contract,
“Bonus Date”	has the meaning assigned to it by paragraph 18 of Schedule 12A, to the Act,
“Company”	[] ¹
“Control”	has the meaning assigned to it in section 432 to the Act,
“Date of Grant”	the date on which an application for an Option is, was or may be accepted in accordance with Rule 4,
“Directors”	the directors for the time being of the Company
“Eligible Employee”	means every person, subject to Rule 6, who on the Date of Grant and on the Date of Exercise: (i) (a) is an employee of the Company, including a full-time director, (b) is chargeable to tax under Schedule E in respect of that employment, and (c) who had on the date of the relevant issue of the relevant invitations pursuant to Rule 2.1 been such an employee or director continuously for a period of [] ² or, (ii) is any other employee or director of a the Company, nominated by the Board to be an Eligible Employee, provided that no person shall be an Eligible Employee if that person is ineligible to participate in the Scheme by virtue of paragraph 8, Schedule 12A to the Act,

¹ Insert the name of the Company establishing the Scheme.

² Insert a qualifying period. (The qualifying period cannot exceed three years).

“Market Value”	has the meaning assigned to it by section 548 to the Act,
“ Maximum Bonus”	the Bonus paid at the end of a seven year Savings Contract,
“Option”	a right to acquire Shares granted (or to be granted) in accordance with the Rules of the Scheme,
“Participating Company”	means the Company and any other company of which the Company has Control and which has been nominated by the Board as a Participating Company,
“Rule”	the rules of the Scheme as amended from time to time,
“Savings Contract”	a contract under a certified contractual savings scheme, within the meaning of Schedule 12B, to the Act,
“the Scheme”	means the [] ³ savings-related share option scheme constituted and governed by these Rules as from time to time amended,
“Shares”	fully paid up ordinary shares of the Company which comply with the provisions of paragraphs 10 to 15, of Schedule 12A, to the Act,
“Specified Age”	Age [] ⁴ or any other age at which a person is bound to retire provided it is between 60 and pensionable age within the meaning of section 2 of the Social Welfare (Consolidation) Act, 1993,
“3-Year Standard Bonus”	the Bonus paid at the end of a three year Savings Contract,
“5-Year Standard Bonus”	the Bonus paid at the end of a five year Savings Contract,
“Subscription Price”	the price at which each Share subject to an Option may be acquired on the exercise of that Option being subject to Rule 8, the higher of; i . the nominal value of a Share, or ii . 75% of the Market Value of a Share on the day that the invitation to apply for that Option was issued pursuant to Rule 2,
“Subsisting Option”	an Option which has neither lapsed nor been exercised.

1.2 Words importing the singular shall include the plural, and vice versa, and words importing the masculine shall include the feminine

1.3 Any reference to any statute (or a particular Part, Chapter or Section thereof) shall mean and include any statutory modification or re-enactment thereof for the time being in force, and any regulations made thereunder.

2. Invitations to Apply for Options

2.1 The Board may invite every Eligible Employee to apply for the grant of an Option to acquire Shares in the Company on any one occasion within each of the following periods

i. a period of four weeks commencing four days following the approval of the Scheme by the Revenue Commissioners

³ Insert the Scheme Name.

⁴ Insert Age

ii. a period of four weeks commencing four days after each Announcement Date provided that no invitation may be made after the tenth anniversary of the Adoption Date.

2.2 Each invitation shall specify

i. the date, not being less than 14 days after the issue of the invitation, by which the application must be made,

ii. the Subscription Price at which the Shares may be acquired on the exercise of any Option granted in response to the application, and

iii. the maximum permitted aggregate monthly savings contribution, being the lesser of the maximum specified in paragraph 25 of Schedule 12A to the Act, and such sum (being a multiple of €1 and not less than €12) as the Board decides shall apply to every Eligible Employee in respect of that invitation.

2.3 Each invitation shall be accompanied by a proposal form for a Savings Contract, and an application form which will provide for the applicant to state

i. the monthly savings contribution (being a multiple of €1 and not less than €12 or such amount as specified in paragraph 25 of Schedule 12A to the Act) which he wishes to make under the related Savings Contract,

ii. that his proposed monthly savings contribution, when added to any monthly savings contributions then being made under any other Savings Contract linked to an Option granted under the Scheme or any other savings related share option scheme approved by the Revenue Commissioners, will not exceed the maximum permitted aggregate monthly savings contributions specified in the invitation,

iii. whether, for the purposes of determining the number of Shares over which an Option is to be granted, the repayment under the Savings Contract is to be taken as including the Maximum Bonus, the 5-Year Standard Bonus, the 3-Year Standard Bonus or no Bonus

and to authorise the Board to enter on the Savings Contract proposal form such monthly savings contribution, not exceeding the maximum stated on the application form as shall be determined subject to rule 3 below.

2.4 Each application shall be deemed to be for an Option over the largest whole number of Shares which can be bought at the Subscription Price with the expected repayment under the related Savings Contract at the appropriate Bonus Date.

3. Scaling Down

3.1 If the Board receives valid applications for Options over an aggregate number of Shares which exceeds the limit determined pursuant to Rule 5.2 below in respect of that invitation, then the following steps shall be carried out successively to the extent necessary to eliminate the excess

i. each election for the Maximum Bonus to be included in the repayment under the Savings Contract shall be deemed to be an election for only the 5-Year Standard Bonus to be so included,

ii. each election for the 5-Year Standard Bonus or the 3-Year Standard Bonus to be included in the repayment under the Savings Contract shall be deemed to be an election for no Bonus to be so included,

iii. the excess over €12 of the monthly savings contribution chosen by each applicant shall be reduced pro rata to the extent necessary,

iv. applications shall be selected by lot, each based on a monthly savings contribution of €12 and the inclusion of no Bonus in the repayment under the Savings Contract.

Each application shall be deemed to have been modified or withdrawn in accordance with the application

of the foregoing provisions and the Board shall complete each Savings Contract proposal form to reflect any reduction in monthly savings contribution resulting therefrom.

4. Grant of Options

4.1 No later than the thirtieth day or if Rule 3 applies the forty second day following the day on which the invitations were issued pursuant to Rule 2, the Board shall grant to each applicant who is still an Eligible Employee and is not precluded from participation in the Scheme by virtue of paragraph 8 of Schedule 12A to the Act, an Option over the number of Shares for which, pursuant to Rule 2.4 and subject to Rule 3, he is deemed to have applied.

As soon as possible after Options have been granted the Board shall issue an Option certificate in respect of each Option in such form, not inconsistent with these Rules, as the Board may determine.

No Option may be transferred, assigned or charged, and any purported transfer, assignment or charge shall cause the Option to lapse forthwith. Each Option certificate shall carry a statement to this effect.

5. Limitations on Grants

[**5.1** No Option shall be granted pursuant to Rule 4 above if such grant would result in the aggregate of ;

- i. the number of Shares over which Subsisting Options have been granted under this Scheme, and
- ii. the number of Shares which have been issued on the exercise of Options granted under this Scheme, and
- iii. the number of Shares over which Subsisting Options have been granted under any other share option scheme during the period of 10 years ending on the relevant Date of Grant, and
- iv. the number of Shares which have been issued pursuant to any other employee share scheme (including a share option scheme) during the period of 10 years ending on the relevant Date of Grant exceeding (x%) of the number of Shares in issue.]⁵

5.2 The Board may, before issuing invitations on any occasion, determine a limit on the number of Shares which are to be available in respect of that invitation in order to ensure that Shares remain available for subsequent invitations.

5.3 No Option shall be granted to an Eligible Employee if the monthly savings contribution under the related Savings Contract, when added to the monthly savings contributions then being made under any other Savings Contract, would exceed the maximum specified in paragraph 25 of Schedule 12A to the Act.

6. Exercise of Options

6.1 Subject to Rule 9 any Subsisting Option may be exercised in whole or in part at any time following the earliest of the following events

- i. the relevant Bonus Date if, on the day of exercise, the Option holder is an employee or director of the Company
- ii. the death of the Option holder
- iii. the Option holder ceasing to be a director or employee of the Company by reason of injury, disability, redundancy within the meaning of the Redundancy Payments Acts, 1967 to 1991 or retirement on reaching the Specified Age
- iv. the Option holder ceasing to be a director or employee of the Company by reason only that
 - (a). that office or employment is in a company of which the Company ceases to have Control, or

⁵ These provisions are not required for Revenue approval. They are designed to protect existing shareholders. Each company must decide for itself what, if any, limits should be imposed.

- (b). that office or employment relates to a business or part of a business which is transferred to a person who is neither an Associated Company nor a company of which the Company has Control
- v. the relevant Bonus Date, where an Option holder holds an office or employment in a company which is not the Company but which is
 - (a) an Associated Company of the Company, or
 - (b) a company of which the Company has Control
- vi. the Option holder ceasing to be a director or employee of the Company more than three years after the Date of Grant of the relative Option by reason of []⁶.

6.2 An Option shall lapse on the earliest of the following events :

- i. except where the Option holder has died, the expiry of six months following the Bonus Date
- ii. where the Option holder died during the six months following the Bonus Date the first anniversary of the Bonus Date
- iii. where the Option holder has died before the Bonus Date, the first anniversary of his death
- iv. unless the Option holder has died, the expiry of six months after the Option has become exercisable by virtue of paragraph (iii) of Rule 6.1
- v. the expiry of six months after the Option has become exercisable by virtue of paragraph (iv) or (vi) of Rule 6.1 or in accordance with Rule 7
- vi. the Option holder ceasing to be a director or employee of the Company in circumstances in which the Option does not become exercisable
- vii. the Option holder becoming bankrupt.

6.3 No person shall be treated for the purposes of this Rule 6 as ceasing to be employed by the Company until he is no longer employed by the Company, any Associated Company or a company of which the Company has Control.

6.4 If an Option holder continues to be employed by the Company after the date on which he reaches the Specified Age, he may exercise any Subsisting Option within six months following that date.

7. Take-overs and Liquidations

7.1 If any person obtains Control of the Company as a result of making

- i. a general offer to acquire the whole of the issued ordinary share capital of the Company which is made on condition such that if it is satisfied the person making the offer will have Control of the Company, or
- ii. a general offer to acquire all the shares in the Company which are of the same class as the Shares then any Subsisting Option may be exercised within six months of the time when the person making the offer has obtained Control of the Company and any condition subject to which the offer is made has been satisfied.

7.2 If under section 201 of the Companies Act, 1963, the Court sanctions a compromise or arrangement proposed for the purposes of or in connection with a scheme for the reconstruction of the Company or its amalgamation with any other company or companies, any Subsisting Option may be exercised within six months of the court sanctioning the compromise or arrangement.

⁶ Insert the reasons which must apply to all participants.

7.3 If any person becomes bound or entitled to acquire Shares in the Company, under section 204 of the Companies Act, 1963, any Subsisting Option may be exercised at any time when that person remains so bound or entitled.

7.4 If as a result of the events specified in Rules 7.1 or 7.2 a company has obtained Control of the Company, or if a company has become bound or entitled as mentioned in Rule 7.3, the Option holder may, by agreement with the other company (the “Acquiring Company”), within the Appropriate Period, release each Subsisting Option (the “Old Option”) for an Option (the “New Option”) which satisfies the conditions that it

- i. is over Shares in the Acquiring Company or some other company falling within sub-paragraphs (b) or (c) of paragraph 11, Schedule 12A to the Act, which satisfy the conditions specified in paragraphs 11 to 15 inclusive, Schedule 12A to the Act;
- ii. is a right to acquire such number of such Shares as has on acquisition of the New Option an aggregate Market Value equal to the aggregate Market Value of the Shares subject to the Old Option on its release;
- iii. has a Subscription Price per Share such that the aggregate price payable on the complete exercise equals the aggregate price which would have been payable on complete exercise of the Old Option; and
- iv. is otherwise identical in terms to the Old Option.

This New Option shall, for all other purposes of the Scheme, be treated as having been acquired at the same time as the Old Option.

Where any New Options are granted pursuant to this Rule 7.4, Rules 7, 8, 9, 10.1 and 10.3 to 10.6 shall, in relation to the New Options, be construed as if references to the Company and to the Shares were references to the Acquiring Company or, as the case may be, to the other company to whose shares the New Options relate, and to the shares in that other company, but references to Participating Company⁷ shall continue to be construed as if references to the Company were references to []⁸.

7.5 If the Company passes a resolution for voluntary winding up, any Subsisting Option may be exercised within six months of the passing of the resolution.

7.6 For the purposes of this Rule 7 other than Rule 7.4 a person shall be deemed to have obtained Control of a Company if he and others acting in concert with him have together obtained Control of it.

7.7 The exercise of an Option pursuant to the preceding provisions of this Rule 7 shall be subject to the provisions of Rule 9 below.

7.8 Where in accordance with Rule 7.4 Subsisting Options are released and New Options granted, the New Options shall not be exercisable in accordance with Rules 7.1, 7.2, and 7.3 above by virtue of the event by reason of which the New Options were granted.

8. Variation of Share Capital

In the event of any variation in the share capital of the Company by way of capitalisation or rights issue or any consolidation, sub-division or reduction or otherwise, the number of Shares subject to any Option and the Subscription Price for each of those Shares shall be adjusted in such manner as the Auditors confirm to be fair and reasonable provided that

⁷ In the case of a Group Scheme.

⁸ Insert the name of the Company.

- i. the aggregate amount payable on the exercise of an Option in full is neither materially changed nor increased beyond the expected repayment under the Savings Contract at the appropriate Bonus Date,
- ii. the Subscription Price for a Share is not reduced below its nominal value,
- iii. no adjustment shall be made without the prior written approval of the Revenue Commissioners, and
- iv. following the adjustment the Shares continue to satisfy the conditions specified in paragraphs 11 to 15 inclusive, Schedule 12A, to the Act.

9. Manner of Exercise of Options

9.1 No Option shall be exercised by an individual at any time when he is, or by the personal representatives of an individual who at the date of his death was, precluded by paragraph 8, of Schedule 12A to the Act from participating in the Scheme.

9.2 No Option shall be exercised at any time when the Shares which may thereby be acquired are not Shares as defined in Rule 1.1.

9.3 An Option shall only be exercised over the number of Shares which may be purchased with the sum obtained by way of repayment under the related Savings Contract.

9.4 An Option shall be exercised by the Option holder, or as the case may be, his personal representatives, giving notice to the Company in writing of the number of Shares in respect of which he wishes to exercise the Option accompanied by the appropriate payment together with evidence of the repayment of the savings contributions (which shall not exceed the sum obtained by way of repayment under the related Savings Contract) and the relevant Option certificate, and shall be effective on the date of its receipt by the Company.

9.5 Shares shall be allotted and issued pursuant to a notice of exercise within thirty days of the date of exercise. Save for any rights determined by reference to a date preceding the date of allotment, such Shares shall rank pari passu with the other Shares of the same class in issue at that date of allotment.

9.6 When an Option is exercised only in part, it shall lapse to the extent of the unexercised balance.

9.7 For the purposes of Rules 9.3 and 9.4 above, any repayment under the related Savings Contract shall exclude the repayment of any contribution the due date for payment of which falls more than one month after the date on which repayment is made.

10. Administration and Amendment

10.1 The Scheme shall be administered by the Board whose decision on all disputes shall be final.

10.2 The Board may from time to time amend these Rules provided that

i. no amendment shall materially affect an Option holder as regards an Option granted prior to the amendment being made

ii. no amendment shall be made which would make the terms on which Options may be granted materially more generous or would increase the limit specified in Rule 5.1 without the prior approval of the Company in general meeting

iii. no amendment shall be made without the prior written approval of the Revenue Commissioners.

10.3 The costs of establishing and operating the Scheme shall be borne by the Company.

10.4 The Board may establish a committee consisting of not less than three persons to whom any or all of its powers in relation to the Scheme may be delegated. The Board may at any time dissolve the committee, alter its constitution or direct the manner in which it shall act.

10.5 Any notice or other communication under or in connection with the Scheme may be given by the Company either personally or by post and to the Company either personally or by post to the secretary. Items sent by post shall be pre-paid and shall be deemed to have been received seventy two hours after posting.

10.6 The Company shall at all times keep available sufficient authorised and unissued Shares to satisfy the exercise to the full extent still possible of all Options which have neither lapsed nor been fully exercised, taking account of any other obligations of the Company to issue unissued Shares.

11. General

11.1 All eligible employees shall be eligible to participate in the Scheme on similar terms.

11.2 The Scheme shall be subject to the laws of Ireland.

Appendix 2 (Draft Copy)

Letter of Invitation

(On company headed note paper)

Date

Dear

Re The Savings-Related Share Option (Scheme Name)(Year of Launch)

You are invited to apply for an Option to acquire ordinary Shares of () in the Company under the Scheme. If you are unfamiliar with the Scheme, you should consult the explanatory notes, a copy of which is enclosed or you have already received.

A copy of the Rules may be obtained from the Company secretary, at the address shown below.

If you wish to apply for an Option, you must complete the application form enclosed.

In the application form you must specify

1. (a) whether you wish to save for three or five years,
(b) if you wish to save for five years whether you wish the Option to be exercisable after five or seven years, and
(c) whether you wish to include the **Bonus** on repayment of the Savings Contract.
2. (a) if you are monthly paid, the amount which you wish to save each month. This amount must be a minimum of €12 or up to a maximum of €500 per month; or
(b) if you are weekly paid, the amount which you wish to save each week. The amount must be a minimum of €3 per week or up to €125 per week. (Provided the maximum amount of €500 per month is not exceeded.)

Your contributions will be deducted from your net pay and you will note that you authorise your employer to do this in the application form. At the end of each month the amount of your contribution for that period will be transferred to your Savings account/SAYE contract with the qualifying savings institution.

Your Option will be over the number of Shares which will be computed by reference to

- (a) the amount you decide to save, and
- (b) the Subscription Price, and
- (c) whether your Option may be exercised, after three, five or seven years, and
- (d) whether you have elected to include the **Bonus** on repayment of the Savings Contract or not.

The Subscription Price per Share will be (€).

By completing the Application Form as described above, the Board will be able to determine the number of ordinary Shares over which you will be granted an Option.

If total applications received exceed the number of Shares which will be made available, it may be necessary to change your election from seven years to five years, or from five years to three years, or to reduce the amount of your monthly/weekly contribution. By completing the Application Form, you authorise the Company to amend your Application Form to this effect.

Enclosed also is an application form to the qualifying savings institution asking them to open a Savings Account. Instructions on completion should be attached.

If you wish to apply for an Option, please complete the enclosed forms and return to me not later than (). Please allow () days for delivery by post.

Please note that you may only apply for one Option in response to this invitation, you should not therefore make more than one application.

If you have any queries in connection with the application forms please contact the Company secretary at
.....
.....
.....

Yours faithfully,

For and on behalf of

Application Form

The Savings Related Share Option Scheme for

PLEASE USE BLOCK CAPITALS AND READ THE ACCOMPANYING NOTES.

To : The Secretary,

Name.....

Address

.....

.....

.....

Personal Public Service Number

Employing Company

A Share Option

I apply for an Option under the Scheme to acquire ordinary Shares of () each in Ltd with the proceeds of a certified contractual savings scheme and I agree to be bound by the Rules of the Scheme. **(Note 1)**

I wish to exercise my Option after years. **(Note 2)**

I wish to confirm that my **Bonus** amount should be included to purchase Shares Yes No
(Please tick appropriate box)

B Deduction from Pay.

I authorise my employing company to deduct from my net pay the amount shown below and to pay this amount to qualifying savings institution until I have completed the equivalent of () months payments. **(Note 3.)** I accept that this amount may be varied if I change from weekly to monthly pay or vice versa. These instructions remain in force until cancelled by me in writing.

IF PAID MONTHLY

Complete this Section per month between €12 and €500

IF PAID WEEKLY

Complete this Section per week between €3 and €125 (Provided the maximum amount per month does not exceed €500).

(Note 4)

C Amendments

I authorise the Company to change my election in line with Rule (Scaling Down) of the Scheme Rules if the total number of Shares applied for exceeds the number available.

Usual signature Date

Notes.

1 A copy of the Rules of the Scheme may be inspected on application to.....

2 In order to calculate the number of Shares over which you will be granted an Option, you must decide whether you wish to exercise your Option, after three, five or seven years. Enter three, five or seven as you decide.

3 Enter 36 if you wish to save for three years and exercise your Option after three years, or 60 if you wish to save for five years and exercise your Option after five or seven years.

4 Complete one section only. Decide how much you wish to save and enter the amount in the appropriate section.

The first deductions will commence from your first pay shortly after the Option is granted to you.

IMPORTANT. Your completed application form must reach the Company by (). Please allow at least () working days for delivery by post.

Option Certificate.

..... Ltd.
Savings Related Share Option Scheme

This is to certify that

.....
is the holder of an Option to acquire up to a maximum of.....
ordinary Shares of Ltd at a price of
per ordinary Share.

Personal Public Service Number

The Option was granted on under the Rules of the
.....Ltd Savings-Related Share Option Scheme.

The Option is exercisable in whole or in part as specified in the Rules of the Scheme. It is not transferable.

Total Subscription Price on exercise (in full).....

Bonus date (date on which Option normally becomes exercisable)

Total Proceeds (including bonus) from Savings Contract.....

Scheme Contribution per month

Deductions from your pay in respect of your contribution will commence on

Signed
Company Secretary.

This Certificate is important and should be kept in a safe place

This certificate is issued as a matter of record only and is not a document of title. This Option is personal to the Option holder named herein and his legal personal representative and may not be sold, transferred, charged or otherwise disposed of in any other manner.

Notice of Exercise of Option

.....Ltd
Savings Related Share Option Scheme

To : The Secretary,

..... Ltd

1. I being the holder of the Option represented by the attached Certificate, hereby exercise the Option in respect of ordinary Shares of (description) each at the Subscription Price stated thereon.
2. I enclose either (i) an authority to collect from the qualifying savings institution such amount to be the payment in full for the ordinary Shares or (ii) a cheque/money order for in favour ofLtd in payment in full for the ordinary Shares together with evidence of the repayment of the savings contributions relating to the Option amounting to not less than such remittance.
3. I wish the ordinary Shares to be registered as fully paid in my name and agree to accept the ordinary Shares subject to the Memorandum and Articles of Association of the Company.
4. I request you to issue a Share Certificate in respect of the ordinary Shares.

Signed Date

Full Name and Home Address in Block Capitals.

.....
.....
.....
.....

Personal Public Service Number

Notes

If an Option is exercised in respect of some only of the ordinary Shares comprised in it, the Option in respect of the balance will lapse.

Personal Representatives wishing to exercise an Option should write to the secretary, at the address below, who will inform them of the action which they should take.

Secretary's address.

.....
.....
.....
.....

Appendix 3.

The annual Return of Information can be found at the following link: [Tax Return Forms](#)

This must be downloaded and the completed and signed return submitted to Share Schemes Section by the 31st March each year.