

UK Budget Announces Welcome Enterprise Management Incentive Changes From 6 April 2026 and 6 April 2027

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Tax-efficient UK Enterprise Management Incentive (EMI) options have for a long time been restricted to smaller “startup” companies. Yesterday’s UK Budget announced three key changes to the EMI regime, allowing larger companies to benefit and all qualifying companies to grant more EMI options.

From 6 April 2026, the EMI criteria will be relaxed such that companies with:

- Gross assets of up to 120 million pounds (previously only 30 million pounds)
- Up to 500 employees (previously 250)

may be eligible to grant EMI options, allowing their UK employees to benefit from lower capital gains tax rates.

From 6 April 2026, qualifying companies will be able to grant EMI options up to a total value of 6 million pounds (previously 3 million pounds), reflecting the fact that companies with larger workforces will qualify.

All of this is great news for successful “scale-up” companies who moved to granting less flexible Company Share Option Plan (CSOP) options, introduced more complicated growth share arrangements, or reverted to non-tax favoured unapproved options when they outgrew EMI.

Finally, from 6 April 2026, the limit on the exercise period of an EMI option will be extended to 15 years (previously 10 years). Companies can incorporate this term into EMI options granted on or after 6 April 2026. Companies may also extend the exercise period for existing options by revising the relevant EMI option documentation.

This extension will ease the pressure on individuals to exercise their options at a time when the average period from startup to exit is increasing and option holder participation in secondary financings may not be offered or may be unavailable if the option plan is “exit only” and the exercise of a discretion to permit exercise before an exit would jeopardise EMI status.

In other great news, from 6 April 2027, the EMI notification requirement will be removed, further simplifying EMI compliance requirements and due diligence on sale transactions.

Drafting, amending and operating EMI option plans is not straightforward. To avoid any unexpected tax issues on your next financing or future exit transaction, please speak to lawyers before making any changes to your EMI options.

FAQs

1. My company doesn’t currently qualify to grant EMI options. What shall I do?

If your company is expected to qualify under the amended criteria applicable from 6 April 2026, you should consider moving to – or back to – EMI options for new option grants from 6 April 2026.

We expect many companies that qualify to grant EMI options from 6 April 2026 to cancel their less favourable CSOP or unapproved options, and regrant those options as EMI.

2. My company has previously granted EMI options. Do I need to do anything?

No immediate action is required. The expanded eligibility criteria and limits apply automatically from 6 April 2026, and existing EMI options remain subject to their current terms. However, if your company wishes to extend the exercise period of existing EMI options to 15 years, amendments will need to be made to your EMI option plan documentation.

3. Do the changes apply to unexercised EMI options granted before 6 April 2026?

Only the 15-year extended exercise period can be applied retrospectively by amending the terms of an existing EMI option. No other changes will apply retrospectively.

4. Will the individual limit on EMI options also be changed?

No. The individual limit remains at 250,000 pounds per employee. This is calculated using the unrestricted market value of a share on the date of grant.

5. What other eligibility criteria are relevant to EMI?

All other EMI qualification criteria will remain in place:

- Companies granting EMI options must be independent, have only “qualifying subsidiaries”, carry on only “qualifying trades” and have a permanent establishment in the UK.
- The shares under option must be ordinary shares – or “common stock” – fully paid up and not redeemable.
- Individuals receiving options – being employees or directors of the company (or one of its qualifying subsidiaries) – must work at least 25 hours per week on average for the company or subsidiary (or 75% of their working time, if less), and must not hold a “material interest” in the company.

6. Is the requirement to notify HM Revenue and Customs (HMRC) of the grant of EMI options also changing?

Yes. From 6 April 2027, companies will no longer need to notify HMRC of EMI option grants – but the annual reporting requirement remains unchanged.

7. Does any of this impact the use of “discretions” in EMI options?

No. HMRC’s guidance from October 2022 on the use of discretions to permit EMI options to be exercised other than in accordance with their stated terms has not changed. This remains a complex area, requiring careful consideration of the option documentation, EMI legislation and HMRC guidance.

If you have any further questions about EMI options or share plans generally, please contact any of the Cooley lawyers listed below. We would be delighted to help!

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