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# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIII

#### MISCELLANEOUS SPECIAL PROVISIONS

#### CHAPTER IV

#### SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

**Modifications etc. (not altering text)**

**C1** For regulations see Part III Vol.5.

**559 Deductions on account of tax etc. from payments to certain sub-contractors.**

(1) <sup>M1</sup>Subject to [<sup>F1</sup>the following provisions of this section], where a contract relating to construction operations is not a contract of employment but—

- (a) one party to the contract is a sub-contractor; and
- (b) another party to the contract (“the contractor”) either is a sub-contractor under another such contract relating to all or any of the construction operations or is a person to whom section 560(2) applies,

this section shall apply to any payments which are made under the contract and are so made by the contractor to—

- (i) the sub-contractor;
- (ii) a person nominated by the sub-contractor or the contractor; or
- (iii) a person nominated by a person who is a sub-contractor under another such contract relating to all or any of the construction operations.

[<sup>F2</sup>(1A) Subsection (1) above shall not apply to any payment made under the contract in question that is chargeable to income tax under Schedule E by virtue of section 134(1).]

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- (2) Subsection (1) above shall not apply to any payment made under the contract in question if the person to whom it is made or, if it is made to a nominee, each of the following persons, that is to say, the nominee, the person who nominated him and the person for whose labour (or, where that person is a company, for whose employees' or officers' labour) the payment is made, is excepted from this section in relation to those payments by virtue of section 561.
- (3) <sup>F3</sup> .....
- [<sup>F4</sup>(3A) Subsection (1) above shall not apply to a payment made under any contract if such conditions as may be prescribed in regulations made by the Board are satisfied in relation to the payment and the person making it.]
- (4) <sup>M2</sup>On making a payment to which this section applies the contractor shall deduct from it a sum equal to [<sup>F5</sup>the relevant percentage] of so much of the payment as is not shown to represent the direct cost to any other person of materials used or to be used in carrying out the construction operations to which the contract under which the payment is to be made relates; and the sum so deducted shall be paid to the Board and shall be treated for the purposes of income tax or, as the case may be, corporation tax—
- (a) as not diminishing the payment; but
  - (b) subject to subsection (5) below, as being income tax or, as the case may be, corporation tax paid in respect of the [<sup>F6</sup>profits] of the trade, profession or vocation of the person for whose (or for whose employees' or officers') labour the contractor makes the payment.
- [<sup>F7</sup>(4A) In subsection (4) above “the relevant percentage”, in relation to a payment, means such percentage (not exceeding the percentage which is the basic rate for the year of assessment in which the payment is made) as the Treasury may by order determine.]
- (5) Where a sum deducted and paid to the Board under subsection (4) above is more than sufficient to discharge the liability to income tax of the person referred to in paragraph (b) of that subsection in respect of the [<sup>F6</sup>profits] mentioned in that paragraph, so much of the excess as is required to discharge any liability of that person for Class 4 contributions shall be treated as being, for the purposes of the Social Security Act, Class 4 contributions paid in respect of the [<sup>F6</sup>profits] so mentioned.
- [<sup>F8</sup>(5A) Notwithstanding anything in the preceding provisions of this section, the requirement to make a deduction under subsection (4) above shall have effect for the purposes of section 829 (application of Income Tax Acts to public departments) as if the whole of any deduction required to be made in pursuance of that subsection were in all cases a deduction of income tax.]
- [<sup>F9</sup>(6) <sup>M3</sup>References in section 1(1) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 to sums due on account of tax deductions for any period shall be construed as including references to any amounts due from any person in respect of deductions required to be made by him under this section].
- (7) <sup>M4</sup>For the purposes of this Chapter a payment (including a payment by way of loan) that has the effect of discharging an obligation under a contract relating to construction operations shall be taken to be made under the contract; and if—
- (a) the obligation is to make a payment to a person within subsection (1)(i) to (iii) above, but
  - (b) the payment discharging that obligation is made to a person not within those paragraphs,

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the payment shall for those purposes be taken to be made to the first-mentioned person.

(8) <sup>M5</sup>In this section—

“Class 4 contributions” means Class 4 contributions within the meaning of the <sup>M6</sup>Social Security Act 1975 or, as the case may be, the <sup>M7</sup>Social Security (Northern Ireland) Act 1975; and

“the Social Security Act” means whichever of those Acts is the one under which the contribution in question is payable.

#### Textual Amendments

- F1 Words in s. 559(1) substituted (with effect in accordance with s. 55(3) of the amending Act) by Finance Act 1998 (c. 36), s. 55(2)
- F2 S. 559(1A) inserted (with effect in accordance with s. 55(3) of the amending Act) by Finance Act 1998 (c. 36), s. 55(2)
- F3 S. 559(3) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 1, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 27 para. 1(2), Sch. 29 Pt. 8(21); S.I. 1998/2620, art. 3
- F4 S. 559(3A) inserted (with effect in accordance with Sch. 27 para. 1(4) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 1(3); S.I. 1998/2620, art. 3
- F5 Words in s. 559(4) substituted (with effect in accordance with the amending provision) by Finance Act 1995 (c. 4), s. 139(1); S.I. 2000/922, art. 2
- F6 Words in s. 559(4)(b)(5) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 1
- F7 S. 559(4A) inserted (with effect in accordance with the amending provision) by Finance Act 1995 (c. 4), s. 139(1); S.I. 2000/922, art. 2
- F8 S. 559(5A) inserted (with effect in accordance with Sch. 8 para. 2(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 2(1)
- F9 S. 559(6) repealed (N.I.) (1.10.1991) by S.I. 1989/2404, art. 382, Sch. 10; S.R. 1991/411, art. 2

#### Modifications etc. (not altering text)

- C2 See—1970(M) s.62(1A)—*priority of claim for tax*. 1970(M) s.63(3)—*recovery of tax in Scotland*. 1970(M) s.64(1A)—*priority in cases of poinding in Scotland*.
- C3 See 1988(F) s.130(7)(d)—*payment of outstanding tax by migrating companies*.
- C4 S. 559(4) modified (29.4.1996) by Finance Act 1996 (c. 8), s. 72(3)
- C5 S. 559(4) modified (19.3.1997) by Finance Act 1997 (c. 16), s. 54(5)
- C6 See Insolvency (Northern Ireland) Order 1989, Art.381(2)and Sch.9 para.61and Art.382and Sch.10 (S.I. 1989 No.2405—not reproduced)

#### Marginal Citations

- M1 Source-1975 (No.2) s.69(1), 70A(2); 1982 Sch.8 5
- M2 Source-1975 (No.2) s.69(4), (5); 1987 s.23
- M3 Source-1975 (No.2) Sch.12 Pt.I 2(2); 1980 Sch.8 4(3); 1982 Sch.8 8
- M4 Source-1972 s.71(5); 1982 Sch.8 6
- M5 Source-1975 (No.2) s.69(10)
- M6 1975 c. 14.
- M7 1975 c. 15.

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VALID FROM 24/07/2002

### **[<sup>F10</sup>559A Treatment of sums deducted under s.559**

- (1) A sum deducted under section 559 from a payment made by a contractor—
  - (a) shall be paid to the Board, and
  - (b) shall be treated for the purposes of income tax or, as the case may be, corporation tax as not diminishing the amount of the payment.
- (2) If the sub-contractor is not a company a sum deducted under section 559 and paid to the Board shall be treated as being income tax paid in respect of the sub-contractor's relevant profits.

If the sum is more than sufficient to discharge his liability to income tax in respect of those profits, so much of the excess as is required to discharge any liability of his for Class 4 contributions shall be treated as being Class 4 contributions paid in respect of those profits.

- (3) If the sub-contractor is a company—
  - (a) a sum deducted under section 559 and paid to the Board shall be treated, in accordance with regulations, as paid on account of any relevant liabilities of the sub-contractor;
  - (b) regulations shall provide for the sum to be applied in discharging relevant liabilities of the year of assessment in which the deduction is made;
  - (c) if the amount is more than sufficient to discharge the sub-contractor's relevant liabilities, the excess may be treated, in accordance with the regulations, as being corporation tax paid in respect of the sub-contractor's relevant profits; and
  - (d) regulations shall provide for the repayment to the sub-contractor of any amount not required for the purposes mentioned in paragraphs (b) and (c).
- (4) For the purposes of subsection (3) the “relevant liabilities” of a sub-contractor are any liabilities of the sub-contractor, whether arising before or after the deduction is made, to make a payment to a collector of inland revenue in pursuance of an obligation as an employer or contractor.
- (5) In this section—
  - (a) “the sub-contractor” means the person for whose labour (or for whose employees' or officers' labour) the payment is made;
  - (b) references to the sub-contractor's “relevant profits” are to the profits from the trade, profession or vocation carried on by him in the course of which the payment was received;
  - (c) “Class 4 contributions” means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (6) References in this section to regulations are to regulations made by the Board.
- (7) Regulations under this section—
  - (a) may contain such supplementary, incidental or consequential provision as appears to the Board to be appropriate, and

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(b) may make different provision for different cases.]

#### Textual Amendments

**F10** S. 559A inserted (with effect in accordance with s. 40(4) of the amending Act) by Finance Act 2002 (c. 23), s. 40(1)

### 560 Persons who are sub-contractors or contractors for purposes of Chapter IV.

- (1) <sup>M8</sup>For the purposes of this Chapter a party to a contract relating to construction operations is a sub-contractor if, under the contract—
- (a) he is under a duty to the contractor to carry out the operations, or to furnish his own labour (that is to say, in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the operations or to arrange for the labour of others to be furnished in the carrying out of the operations; or
  - (b) he is answerable to the contractor for the carrying out of the operations by others, whether under a contract or under other arrangements made or to be made by him.
- (2) <sup>M9</sup>This subsection applies [<sup>F11</sup>(subject to subsection (2A) below)] to the following persons, that is to say—
- (a) any person carrying on a business which includes construction operations;
  - [<sup>F12</sup>(aa) any public office or department of the Crown (including any Northern Ireland department);]
  - (b) any local authority;
  - (c) any development corporation or new town commission;
  - (d) the Commission for the New Towns;
  - [<sup>F13</sup>(da) the Secretary of State if the contract is made by him under section 89 of the <sup>M10</sup>Housing Associations Act 1985;]
  - (e) the Housing Corporation,<sup>F14</sup> . . . a housing association, a housing trust, the Scottish Special Housing Association, and the Northern Ireland Housing Executive;
  - [<sup>F15</sup>(ea) any such body, being a body (in addition to those falling within paragraphs (aa) to (e) above) which has been established for the purpose of carrying out functions conferred on it by or under any enactment, as may be designated as a body to which this subsection applies in regulations made by the Board;]
  - (f) <sup>M11</sup>a person carrying on a business at any time if—
    - (i) his average annual expenditure on construction operations in the period of three years ending with the end of the last period of account before that time exceeds [<sup>F16</sup>£1,000,000], or
    - (ii) where he was not carrying on the business at the beginning of that period of three years, one-third of his total expenditure on construction operations for the part of that period during which he has been carrying on the business exceeds [<sup>F16</sup>£1,000,000];

and in paragraph (f) “period of account” means a period for which an account is made up in relation to the business in question.

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- [<sup>F17</sup>(2A) Subject to subsection (2B) below, subsection (2) above does not apply at any time to an office, department or body falling within paragraph (aa), (b), (c), (d), (e) or (ea) of that subsection unless that office, department or body has, in the period of three years ending with the 31st March next before that time, had an average annual expenditure on construction operations of more than £1,000,000.
- (2B) Where the condition provided for in subsection (2A) above has been satisfied in the case of any office, department or body in relation to any period of three years, that subsection shall not prevent subsection (2) above from applying to that office, department or body until there have been three successive years after the end of that period in each of which the office, department or body has had expenditure on construction operations of less than £1,000,000.]
- (3) <sup>M12</sup>Where section 559(1)(b) begins to apply to any person in any period of account by virtue of his falling within subsection (2)(f) above, it shall continue to apply to him until he satisfies the Board that his expenditure on construction operations has been less than [<sup>F18</sup>£1,000,000] in each of three successive years beginning in or after that period of account.
- (4) Where the whole or part of a trade is transferred by a company (“the transferor”) to another company (“the transferee”) and section 343 has effect in relation to the transfer, then in determining for the purposes of this section the amount of expenditure incurred by the transferee—
- (a) the whole or, as the case may be, a proportionate part of any expenditure incurred by the transferor at a time before the transfer shall be treated as if it had been incurred at that time by the transferee; and
  - (b) where only a part of the trade is transferred the expenditure shall be apportioned in such manner as appears to the Board, or on appeal to the Commissioners, to be just and reasonable.
- (5) <sup>M13</sup>In this section—
- “development corporation” has the same meaning as in the <sup>M14</sup>New Towns Act 1981 or the <sup>M15</sup>New Towns (Scotland) Act 1968;
- “housing association” has the same meaning as in the <sup>M16</sup>Housing Associations Act 1985 or the <sup>M17</sup>Housing (Northern Ireland) Order 1981;
- “housing trust” has the same meaning as in the <sup>M18</sup>Housing Associations Act 1985; and
- “new town commission” has the same meaning as in the <sup>M19</sup>New Towns Act (Northern Ireland) 1965.

#### Textual Amendments

- F11** Words in s. 560(2) inserted (with effect in accordance with Sch. 8 para. 2(3) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 8 para. 2(2)**
- F12** S. 560(2)(aa) inserted (with application in accordance with Sch. 27 para. 2(3) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 2(1)(a)**
- F13** S. 560(2)(da) inserted (1.11.1998) by Government of Wales Act 1998 (c. 38), **Sch. 16 para. 58(a)**; S.I. 1998/2244, **art. 5**
- F14** Words in s. 560(2)(e) repealed (1.11.1998) by Government of Wales Act 1998 (c. 38), Sch. 16 para. 58(b), **Sch. 18 Pt. 6**; S.I. 1998/2244, **art. 5**
- F15** S. 560(2)(ea) inserted (with application in accordance with Sch. 27, para. 2(3) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27, para. 2(1)(b)**

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- F16** Words in s. 560(2)(f)(3) substituted (with application in accordance with Sch. 27 para. 2(3) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27, para. 2(2)
- F17** S. 560(2A)(2B) inserted (with effect in accordance with Sch. 8 para. 2(3)(4) of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 2(2)
- F18** Word in s. 560(3) substituted (with application in accordance with Sch. 27 para. 2(3) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27, para. 2(2)

#### Marginal Citations

- M8** Source-1975 (No.2) s.69(2)
- M9** Source-1975 (No.2) s.69(3)
- M10** 1985 c. 69.
- M11** Source-1975 (No.2) s.69(3A); 1980 Sch.8 1
- M12** Source-1975 (No.2) s.69(3B), (3C); 1980 Sch.8 1
- M13** Source-1975 (No.2) s.71(3)
- M14** 1981 c. 64.
- M15** 1968 c. 16.
- M16** 1985 c. 69.
- M17** S.I. 1981/156 (N.I. 3).
- M18** 1985 c. 69.
- M19** 1965 c. 13 (N.I.).

## 561 Exceptions from section 559.

<sup>M20</sup>(1) Subject to the provisions of regulations under <sup>F19</sup> . . . section 566(2), a person is excepted from section 559 in relation to payments made under a contract if a certificate under this section has been issued to that person and is in force when the payment is made, but—

- (a) where the certificate has been issued to a person who becomes a partner in a firm, that person is not excepted in relation to payments made under contracts under which the firm or, where a person has nominated the firm to receive payments, the person who has nominated the firm is a sub-contractor; and
- (b) where a certificate has been issued to a person as a partner in a firm, that person is excepted in relation only to payments made under contracts under which the firm or, where a person has nominated the firm to receive payments, the person who has nominated the firm, is a sub-contractor.

(2) If the Board are satisfied, on the application of an individual or a company, that—

- (a) where the application is for the issue of a certificate to an individual (otherwise than as a partner in a firm), he satisfies the conditions set out in section 562;
- (b) where the application is for the issue of a certificate to a person as a partner in a firm, that person satisfies the conditions set out in section <sup>F20</sup>562] if he is an individual or, if a company, the conditions set out in section 565 and, in either case, the firm itself satisfies the conditions set out in section 564;
- (c) where the application is for the issue of a certificate to a company, the company satisfies the conditions set out in section 565 and, if the Board have given a direction under <sup>F21</sup>subsection (6)] below, each of the persons to whom any of the conditions set out in section 562 applies in accordance with the direction satisfies the conditions which so apply to him,

the Board shall issue to that individual or company a certificate excepting that individual or company (or, in a case falling within paragraph (b) above, that individual or company as a partner in the firm specified in the certificate) from section 559.



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(3) References in subsection (2) above to an individual, a company or a firm satisfying conditions set out in section 562, <sup>F22</sup> . . . 564 or 565 include, in relation to a condition which may, by virtue of a provision of that section, be treated as being satisfied, references to that individual, company or firm being treated as satisfying that condition.

(4) <sup>F23</sup> . . . . .

(5) <sup>F23</sup> . . . . .

(6) Where it appears to the Board, on an application made under subsection (2) above by a company, that the company—

- (a) was incorporated on a date within the period of three years ending with the date of the application; or
- (b) has not carried on business continuously throughout that period; or
- (c) has carried on business continuously throughout that period but the business has not at all times in that period consisted of or included the carrying out of construction operations; or
- (d) does not at the date of the application hold a certificate which is then in force under this section;

the Board may direct that the conditions set out in section 562 or such of them as are specified in the direction shall apply to the directors of the company and, if the company is a close company, to the persons who are the beneficial owners of shares in the company or to such of those directors or persons as are so specified as if each of them were an applicant for a certificate under this section<sup>F24</sup> . . . .

In this subsection “director” has the same meaning as in Chapter II of Part V.

(7) Where it appears to the Board that there has been a change in the control of a company holding or applying for a certificate, the Board may make any such direction as is referred to in subsection (6) above.

(8) The Board may at any time cancel a certificate which has been issued to a person and is in force under this section if it appears to them that—

- (a) it was issued on information which was false;
- (b) if an application for the issue of a certificate under this section to that person were made at that time, the Board would refuse to issue a certificate;
- (c) that person has permitted the certificate to be misused; or
- (d) in the case of a certificate issued to a company, there has been a change in the control of the company and information with respect to that change has not been furnished in accordance with regulations under section 566(2);

and may by notice require that person to deliver the certificate to the Board within the time specified in the notice.

Section 840 shall apply for the purposes of paragraph (d) above.

(9) A person aggrieved by the refusal of an application for a certificate under this section or the cancellation of such a certificate may, by notice given to the Board within 30 days after the refusal or, as the case may be, cancellation, appeal to the General Commissioners or, if he so elects in the notice, to the Special Commissioners; and the jurisdiction of the Commissioners on such an appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under this section.



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- (10) If any person, for the purpose of obtaining a certificate under this section—
- (a) makes any statement, or furnishes any document, which he knows to be false in a material particular; or
  - (b) recklessly makes any statement, or furnishes any document, which is false in a material particular,
- he shall be liable [<sup>F25</sup>to a penalty not exceeding £3,000].
- (11) A person to whom a certificate is issued under this section or a voucher is given as required by regulations under section 566(2)(j) [<sup>F26</sup>or who is in possession of any form or other document supplied to him by the Board for use in connection with any regulations under this Chapter] shall take all reasonable steps to ensure its safety; and any person who, without lawful authority or lawful excuse—
- (a) disposes of any such certificate or voucher or any form supplied by the Board in connection with regulations made by virtue of section 566(2)(e); or
  - (b) possesses such a certificate, voucher or form or any document purporting to be such a certificate, voucher or form,
- shall be liable [<sup>F27</sup>to a penalty not exceeding £3,000].
- (12) <sup>F28</sup> .....
- (13) Without prejudice to section 843(3), this section shall come into force on 6th April 1988 to the exclusion of the provisions of section 70 of the Finance (No.2) Act 1975 which are re-enacted in this section, but any offence committed before that date shall not be punishable under this section and neither this subsection nor any other provision of this Act shall prevent any such offence from being punishable as if this Act had not been passed.

#### Textual Amendments

- F19** Words in s. 561(1) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 1, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(21); S.I. 1999/2156, art. 2(a)
- F20** Words in s. 561(2)(b) substituted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 3(1); S.I. 1998/2620, art. 3
- F21** Words in s. 561(2)(c) substituted (retrospectively) by Finance Act 1994 (c. 9), Sch. 17 para. 5
- F22** Words in s. 561(3) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 3, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(21); S.I. 1999/2156, art. 2(a)
- F23** S. 561(4)(5) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 1, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(21); S.I. 1999/2156, art. 2(a)
- F24** Words in s. 561(6) repealed (with effect in accordance with Sch. 29 Pt. 8(21) Notes 3, 5 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(21); S.I. 1999/2156, art. 2(a)
- F25** Words in s. 561(10) substituted (with effect in accordance with Sch. 27 para. 8(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 3(2); S.I. 1998/2620, art. 2
- F26** Words in s. 561(11) inserted (with effect in accordance with Sch. 27 para. 8(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 3(3)(a)
- F27** Words in s. 561(11) substituted (with effect in accordance with Sch. 27 para. 8(2) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 3(3)(b); S.I. 1998/2620, art. 2
- F28** S. 561(12) repealed (with effect in accordance with Sch. 27 para. 8(2) of the repealing Act) by Finance Act 1995 (c. 4), Sch. 29 Pt. 8(21), Note 2; S.I. 1998/2620, art. 2

#### Marginal Citations

- M20** Source-1975 (No.2) s.70(1)-(6), (9)-(11), 70A(1), (2), 71(4); 1982 Sch.8 3, 5; 1987 (No.2) s.93

*Status: Point in time view as at 16/06/1999. This version of this chapter contains provisions that are not valid for this point in time.*

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**562 Conditions to be satisfied by individuals.**

(1) In the case of an application for the issue of a certificate under section 561 to an individual <sup>F29</sup> . . . the following conditions are required to be satisfied by that individual [<sup>F30</sup> except that, where the application is for the issue of that certificate to that individual as a partner in a firm, this section shall have effect with the omission of subsections (2) to (2B).]

- (2) <sup>M21</sup>The applicant must be carrying on a business in the United Kingdom which satisfies the following conditions, that is to say—
  - (a) the business consists of or includes the carrying out of construction operations or the furnishing or arranging for the furnishing of labour in carrying out construction operations;
  - (b) the business is, to a substantial extent, carried on by means of an account with a bank;
  - (c) the business is carried on with proper records and in particular with records which are proper having regard to the obligations referred to in subsections (8) to (12) below; and
  - (d) the business is carried on from proper premises and with proper equipment, stock and other facilities.

[<sup>F31</sup>(2A) The applicant must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, that the carrying on of the business mentioned in subsection (2) above is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the amount specified in regulations made by the Board as the minimum turnover for the purposes of this subsection.

- (2B) In subsection (2A) above “relevant payments” means the following payments, other than so much of them as would fall, as representing the direct cost to any person of any materials, to be disregarded in calculating the amount of any deductions under subsection (4) of section 559, that is to say—
  - (a) payments from which such deductions would fall to be made if the certificate is not granted; and
  - (b) payments which would be such payments but for any regulations under subsection (3A) of that section.]

- (3) <sup>F32</sup> .....
- (4) <sup>F32</sup> .....
- (5) <sup>F32</sup> .....
- (6) <sup>F32</sup> .....
- (7) <sup>F32</sup> .....

(8) <sup>M22</sup>The applicant must, subject to subsection (10) below, have complied with all obligations imposed on him by or under the Tax Acts or the Management Act in respect of periods ending within the qualifying period and with all requests to supply to an inspector accounts of, or other information about, any business of his in respect of periods so ending.

(9) <sup>M23</sup>An applicant who at any time in the qualifying period had control of a company shall be taken not to satisfy the condition in subsection (8) above unless the company

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has satisfied that condition in relation to periods ending at a time within that period when he had control of it; and for this purpose “control”<sup>[F33]</sup> shall be construed in accordance with section 416(2) to (6)].

(10)<sup>M24</sup> An applicant or company that has failed to comply with such an obligation or request as is referred to in subsection (8) above shall nevertheless be treated as satisfying that condition as regards that obligation or request if the Board are of the opinion that the failure is minor and technical and does not give reason to doubt that the conditions mentioned in subsection (13) below will be satisfied.

<sup>[F34]</sup>(11) Where the applicant states, for the purpose of showing that he has complied with all obligations imposed on him as mentioned in subsection (8) above, that he was not subject to any of one or more obligations in respect of any period ending within the qualifying period—

- (a) he must satisfy the Board of that fact by such evidence as may be prescribed in regulations made by the Board; and
- (b) if for that purpose he states that he has been outside the United Kingdom for the whole or any part of the qualifying period, he must also satisfy them, by such evidence as may be so prescribed,] that he has complied with any obligations imposed under the tax laws of any country in which he was living during that period which are comparable to the obligations mentioned in subsection (8) above.

(12)<sup>M25</sup> The applicant must, if any contribution has at any time during the qualifying period become due from him under Part I of the <sup>M26</sup>Social Security Act 1975 or Part I of the <sup>M27</sup>Social Security (Northern Ireland) Act 1975, have paid the contribution when it became due.

(13)<sup>M28</sup> There must be reason to expect that the applicant will, in respect of periods ending after the end of the qualifying period, comply with such obligations as are referred to in subsections (8) to (12) above and with such requests as are referred to in subsection (8) above.

<sup>[F35]</sup>(13A) Subject to subsection (10) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (8) to (11) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.

(14) In this section “the qualifying period”, in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application.]

#### Textual Amendments

- F29** Words in s. 562(1) repealed (with effect in accordance with Sch. 27 para. 8(1), Sch. 29 Pt. 8(21) Note 3 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 27 para. 4(2)(a), Sch. 29 Pt. 8(21); S.I. 1998/2620, art. 3
- F30** Words in s. 562(1) inserted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 4(2)(b); S.I. 1998/2620, art. 3
- F31** S. 562(2A)(2B) inserted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 4(3); S.I. 1998/2620, art. 3

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- F32** S. 562(3)-(7) repealed (with effect in accordance with Sch. 27 para. 8(1), Sch. 29 Pt. 8(21) Note 3 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 27 para. 4(4), **Sch. 29 Pt. 8(21)**; S.I. 1998/2620, **art. 3**
- F33** Words in s. 562(9) substituted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 4(5)**; S.I. 1998/2620, **art. 3**
- F34** Words in s. 562(11) substituted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 4(6)**; S.I. 1998/2620, **art. 3**
- F35** S. 562(13A)(14) substituted for s. 562(14) (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 4(7)**; S.I. 1998/2620, **art. 3**

#### Modifications etc. (not altering text)

- C7** Ss. 562-565 modified (retrospectively, with application in accordance with s. 53(3) of the modifying Act) by Finance Act 1999 (c. 16), **s. 53(1)(2)**

#### Marginal Citations

- M21** Source-1975 (No.2) Sch.12 Pt. I 1
- M22** Source-1975 (No.2) Sch.12 Pt.I 3(1); 1982 Sch.8 11
- M23** Source-1975 (No.2) Sch.12 Pt.I 3(1A); 1982 Sch.8 12
- M24** Source-1975 (No.2) Sch.12 Pt.I 3(2); 1980 Sch.8 7; 1982 Sch.8 13
- M25** Source-1975 (No.2) Sch.12 Pt.I 4.
- M26** 1975 c. 14.
- M27** 1975 c. 15.
- M28** Source-1975 (No.2) Sch.12 Pt.I 7

## 563 Conditions to be satisfied by partners who are individuals.

<sup>F36</sup> .....

#### Textual Amendments

- F36** S. 563 repealed (with effect in accordance with Sch. 27 para. 8(1), Sch. 29 Pt. 8(21) Note 3 of the repealing Act) by Finance Act 1995 (c. 4), Sch. 27 para. 5, **Sch. 29 Pt. 8(21)**; S.I. 1998/2620, **art. 3**

## 564 Conditions to be satisfied by firms.

- (1) In the case of an application for the issue of a certificate under section 561 to an individual or a company as a partner in a firm the following conditions are required to be satisfied by the firm.
  - (2) <sup>M29</sup>The firm's business must be carried on in the United Kingdom and must satisfy the conditions mentioned in section 562(2)(a) to (d).
- <sup>F37</sup>(2A) The partners must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, <sup>F38</sup> that the carrying on of the firm's business is likely to involve—
- (a) the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the sum specified in subsection (2B) below; or
  - (b) the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of construction contract payments which is not less

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than the amount specified for the purposes of this paragraph in regulations made by the Board.]

[<sup>F39</sup>(2AA) In subsection (2A)(a) above “relevant payments” has the meaning given by section 562(2B).]

(2B) The sum referred to in subsection (2A)(a) above is the sum of the following amounts, that is to say—

- (a) the amount obtained by multiplying the number of partners in the firm who are individuals by the amount specified in regulations as the minimum turnover for the purposes of section 562(2A); and
- (b) in respect of each partner in the firm who is a company (other than one to which section 565(2A)(b) would apply), the amount equal to what would have been the minimum turnover for the purposes of section 565(2A) if the application had been for the issue of a certificate to that company.

[<sup>F40</sup>(2C) In subsection (2A)(b) above “construction contract payments” means payments under contracts relating to, or to the work of individuals participating in the carrying out of, any operations which—

- (a) are of a description specified in subsection (2) of section 567; but
- (b) are not of a description specified in subsection (3) of that section,

other than so much of the payments as represents the direct cost to the firm of materials used or to be used in carrying out the operations in question.]

(3) Subject to subsection (4) below, each of the persons who are partners at the time of the application must have complied, so far as any such charge to income tax or corporation tax is concerned as falls to be computed by reference to the profits or gains of the firm’s business—

- (a) with all obligations imposed on him by or under the Tax Acts or the Management Act in respect of periods ending within the qualifying period; and
- (b) with all requests to him as such a partner to supply to an inspector accounts of, or other information about, the firm’s business or his share of the profits or gains of that business.

(4) Where a person has failed to comply with such an obligation or request as is referred to in subsection (3) above the firm shall nevertheless be treated, in relation to that partner, as satisfying that condition as regards that obligation or request if the Board are of the opinion that the failure is minor and technical and does not give reason to doubt that the condition mentioned in subsection (5) below will be satisfied.

(5) There must be reason to expect that each of the persons who are from time to time partners in the firm will, in respect of periods ending after the end of the qualifying period, comply with such obligations and requests as are referred to in subsection (3) above.

(6) Subject to subsection (4) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsection (3) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.

(7) In this section “the qualifying period”, in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application.]

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#### Textual Amendments

- F37** S. 564(2A)-(7) substituted for s. 564(3)-(5) (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), Sch. 27 para. 6; S.I. 1998/2620, art. 3
- F38** Words in s. 564(2A) substituted (with effect in accordance with Sch. 8 para. 5 of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 3(1)
- F39** S. 564(2AA) inserted (with effect in accordance with Sch. 8 para. 5 of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 3(2)
- F40** S. 564(2C) inserted (with effect in accordance with Sch. 8 para. 5 of the amending Act) by Finance Act 1998 (c. 36), Sch. 8 para. 3(3)

#### Modifications etc. (not altering text)

- C8** Ss. 562-565 modified (retrospectively, with application in accordance with s. 53(3) of the modifying Act) by Finance Act 1999 (c. 16), s. 53(1)(2)

#### Marginal Citations

- M29** Source-1975 (No.2) Sch.12 Pt.III 1, 2; 1980 Sch.8 7

### 565 Conditions to be satisfied by companies.

- (1) In the case of an application for the issue of a certificate under section 561 to a company (whether as a partner in a firm or otherwise), the following conditions are required to be satisfied by the company.
- (2) <sup>M30</sup>The company must be carrying on (whether or not in partnership) a business in the United Kingdom and that business must satisfy the conditions mentioned in section 562(2)(a) to (d).
  - [<sup>F41</sup>[<sup>F42</sup>(2A) The company must either—
    - (a) satisfy the Board, by such evidence as may be prescribed in regulations made by them, that the annual receipts test is satisfied; or
    - (b) satisfy the Board that the only persons with shares in the company are companies which are limited by shares and themselves excepted from section 559 by virtue of a certificate which is in force under section 561.
  - (2B) The annual receipts test is satisfied in relation to a company if the carrying on of its business is likely to involve the receipt, annually in the period to which the certificate would relate—
    - (a) of an aggregate amount by way of relevant payments which is not less than the amount obtained by multiplying the amount specified in regulations as the minimum turnover for the purposes of section 562(2A) by the number of persons who are relevant persons in relation to the company; or
    - (b) of an aggregate amount by way of construction contract payments which is not less than the amount specified for the purposes of this paragraph in regulations made by the Board.
  - (2BB) In subsection (2B) above “relevant payments” has the meaning given by section 562(2B).]
  - (2C) For the purposes of subsection (2B) above a person is a relevant person in relation to the company—

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- (a) where the company is a close company, if he is a director of the company (within the meaning of Chapter II of Part V) or a beneficial owner of shares in the company; and
- (b) in any other case, if he is such a director of the company.]

[<sup>F43</sup>(2D) In subsection (2B) above “construction contract payments” means payments under contracts relating to, or to the work of individuals participating in the carrying out of, any operations which—

- (a) are of a description specified in subsection (2) of section 567; but
- (b) are not of a description specified in subsection (3) of that section,

other than so much of the payments as represents the direct cost to the company of materials used or to be used in carrying out the operations in question.]

- (3) The company must, subject to subsection (4) below, have complied with all obligations imposed on it by or under the Tax Acts or the Management Act in respect of periods ending within the qualifying period and with all requests to supply to an inspector accounts of, or other information about, the business of the company in respect of periods so ending.
- (4) A company which has failed to comply with such an obligation or request as is referred to in subsection (3) above shall nevertheless be treated as satisfying this condition as regards that obligation or request if the Board are of the opinion that the failure is minor and technical and does not give reason to doubt that the conditions mentioned in subsection (8) below will be satisfied.
- (5) <sup>M31</sup>The company must, if any contribution has at any time during the qualifying period become due from the company under Part I of the <sup>M32</sup>Social Security Act 1975 or Part I of the <sup>M33</sup>Social Security (Northern Ireland) Act 1975 have paid the contribution when it became due.
- (6) <sup>M34</sup>The company must have complied with any obligations imposed on it by the following provisions of the <sup>M35</sup>Companies Act 1985, in so far as those obligations fell to be complied with within the qualifying period, that is to say—
  - (a) [<sup>F44</sup>sections 226, 241 and 242] (contents, laying and delivery of annual accounts);
  - (b) <sup>F45</sup> .....
  - (c) section 288(2) (return of directors and secretary and notification of changes therein);
  - (d) [<sup>F46</sup>sections 363 to 365] (annual returns);
  - (e) section 691 (registration of constitutional documents and list of directors and secretary of oversea company);
  - (f) section 692 (notification of changes in constitution or directors or secretary of oversea company);
  - (g) section 693 (oversea company to state its name and country of incorporation);
  - (h) section 699 (obligations of companies incorporated in Channel Islands or Isle of Man);
  - (j) Chapter II of Part XXIII (accounts of oversea company).
- (7) The company must have complied with any obligations imposed on it by the following provisions of the <sup>M36</sup>Companies (Northern Ireland) Order 1986, in so far as those obligations fell to be complied with within the qualifying period, that is to say—



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- (a) Articles 235, 247 and 249 (annual accounts, documents included in annual accounts and laying and delivery of accounts);
  - (b) Article 295 (registered office and notification of changes therein);
  - (c) Article 296(2) (return of directors and secretary and notification of changes therein);
  - (d) <sup>F47</sup>Articles 371 to 373] (annual returns);
  - (e) Article 641 (registration of constitutional documents and list of directors and secretary of overseas company);
  - (f) Article 642 (notification of changes in constitution or directors or secretary of overseas company);
  - (g) Article 643 (overseas company to state its name and country of incorporation);
  - (h) Article 649 (accounts of overseas company).
- (8) <sup>M37</sup>There must be reason to expect that the company will, in respect of periods ending after the end of the qualifying period, comply with all such obligations as are referred to in subsections (2) to (7) above and with such requests as are referred to in subsection (3) above.
- <sup>F48</sup>(8A) Subject to subsection (4) above, a company shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (3) to (7) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.]
- (9) <sup>M38</sup>In this section “qualifying period” means the period of three years ending with the date of the company’s application for a certificate under section 561.

#### Textual Amendments

- F41** S. 565(2A)-(2C) inserted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 7(1)**; S.I. 1998/2620, **art. 3**
- F42** S. 565(2A)(2B)(2BB) substituted for s. 565(2A)(2B) (with effect in accordance with Sch. 8 para. 5 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 8 para. 4(1)**
- F43** S. 565(2D) inserted (with effect in accordance with Sch. 8 para. 5 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 8 para. 4(2)**
- F44** Words in s. 565(6)(a) substituted (E.W.S.) (1.4.1990 with effect in accordance with S.I. 1990/355, arts. 6-9, **Sch. 1**) by Companies Act 1989 (c. 40), **Sch. 10 para. 38(3)**; S.I. 1990/355, arts. 3, 8, **Sch. 1**
- F45** S. 565(6)(b) repealed (1.10.1991) by Companies Act 1989 (c. 40, SIF 27), ss. 212, 213, **Sch. 24**; S.I. 1991/1996, **art. 2(c)(iv)**
- F46** Words in s. 565(6)(d) substituted (E.W.S.) (1.10.1990 with saving and transitional provisions in S.I. 1990/1707, **arts. 4, 5**) by Companies Act 1989 (c. 40), **s. 139(5)**
- F47** Words in s. 565(7)(d) substituted (1.10.1991) by S.I. 1990/1504, **art. 74(5)**; S.R. 1991/398, **art. 2(a)** (subject to the provisions set out in S.R. 1991/398, **arts. 3, 4**)
- F48** S. 565(8A) inserted (with effect in accordance with Sch. 27 para. 8(1) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 27 para. 7(2)**; S.I. 1998/2620, **art. 3**

#### Modifications etc. (not altering text)

- C9** Ss. 562-565 modified (retrospectively, with application in accordance with s. 53(3) of the modifying Act) by Finance Act 1999 (c. 16), **s. 53(1)(2)**

#### Marginal Citations

- M30** Source-1975 (No.2) Sch.12 Pt.IV 1, 2(1), (2); 1980 Sch.8 7; 1982 Sch.8 15

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- M31** Source-1975 (No.2) Sch.12 Pt.IV 3
- M32** 1975 c. 14.
- M33** 1975 c. 15.
- M34** Source-1975 (No.2) Sch.12 Pt.IV 6; 1987 Sch.15 8
- M35** 1985 c. 6
- M36** S.I. 1986/1032 (N.I. 6).
- M37** Source-1975 (No.2) Sch.12 Pt.IV 7
- M38** Source-1975 (No.2) Sch.12 Pt.IV 2(3)

## 566 General powers to make regulations under Chapter IV.

- (1)<sup>M39</sup>The Board shall make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under section 559 and for the giving of receipts by persons receiving the payments to persons making them; and those regulations may include any matters with respect to which regulations may be made under section 203.
- (2)<sup>M40</sup>The Board may make regulations—
- (a) prescribing the period for which certificates under section 561 are to be issued and the form of such certificates;
  - (b) providing for the renewal of such certificates;
  - (c) providing for the issue, renewal or cancellation of such certificates or the giving of directions under section 561(6)<sup>F49</sup> . . . on behalf of the Board;
  - (d) requiring the furnishing of information with respect to changes in the control of a company holding or applying for such a certificate;
  - (e) requiring the production of such certificates to such persons and in such circumstances as may be specified in the regulations and providing for the completion and return to the Board of forms certifying such production;
  - (f) requiring the surrender to the Board of such certificates in such circumstances as may be specified in the regulations;
  - (g) requiring persons who make payments under contracts relating to construction operations to keep such records and to make to the Board such returns relating to payments so made by them as may be specified in the regulations, and requiring persons who hold such certificates to keep such records relating to payments so made to them as may be so specified;
  - (h) with respect to the production, copying and removal of, and the making of extracts from, any records kept by virtue of any such requirement as is referred to in paragraph (g) above and with respect to rights of access to or copies of any such records which are removed;
  - (j) requiring vouchers for payments made under contracts relating to construction operations to persons who hold such certificates to be obtained by the person making, and given by the person receiving, the payment, prescribing the form of the vouchers, and requiring their production or surrender to the Board in such circumstances as may be specified in the regulations; and
  - (k) excluding payments from the operation of section 561 where, in such circumstances as may be specified in the regulations, the requirements of regulations relating to the production of certificates or the obtaining, production or surrender of vouchers have not been complied with.

<sup>F50</sup>  
. . .

Section 840 shall apply for the purposes of paragraph (d) above.

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<sup>F51</sup>(2A) The Board may by regulations make provision—

- (a) for the issue of documents (to be known as “registration cards”) to persons who are parties, as sub-contractors, to any contract relating to construction operations or who are likely to become such parties;
- (b) for a registration card to contain all such information about the person to whom it is issued as may be required, for the purposes of any regulations under this section, by a person making payments under any such contract;
- (c) for a registration card to take such form and to be valid for such period as may be prescribed by the regulations;
- (d) for the renewal, replacement or cancellation of a registration card;
- (e) for requiring the surrender of a registration card in such circumstances as may be specified in the regulations;
- (f) for requiring the production of a registration card to such persons and in such circumstances as may be so specified;
- (g) for requiring any person who—
  - (i) makes or is proposing to make payments to which section 559 applies, and
  - (ii) is a person to whom a registration card has to be produced under the regulations,

to take steps that ensure that it is produced to him and that he has an opportunity of inspecting it for the purpose of checking that it is a valid registration card issued to the person required to produce it.

(2B) A person who fails to comply with an obligation imposed on him by virtue of subsection (2A)(g) above shall be liable to a penalty not exceeding £3,000.

(2C) Subject to subsection (2D) below, where—

- (a) a person who is a party to a contract relating to any construction operations (“the contractor”) makes or is proposing to make payments to which section 559 applies,
- (b) the contractor is required by regulations under this section to make statements about another party to the contract (“the sub-contractor”) in any return, certificate or other document,
- (c) a registration card containing the information to be stated should have been produced, in accordance with any such regulations, to the contractor, and
- (d) the statements made in the return, certificate or other document, so far as relating to matters the information about which should have been obtainable from the card, are inaccurate or incomplete in any material respect,

the contractor shall be liable to a penalty not exceeding £3,000.

(2D) A person shall not be liable to a penalty under subsection (2C) above if—

- (a) a valid registration card issued to the sub-contractor, or a document which the contractor had reasonable grounds for believing to be such a card, was produced to the contractor and inspected by him before the statements in question were made; and
- (b) the contractor took all such steps as were reasonable, in addition to the inspection of that card, for ensuring that the statements were accurate and complete.

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- (2E) A person liable to a penalty under subsection (2C) above shall not, by reason only of the matters in respect of which he is liable to a penalty under that subsection, be liable to any further penalty under section 98 of the Management Act.
- (2F) Regulations under this section may make different provision for different cases.]
- [<sup>F52</sup>(3) Any power under this Chapter to make regulations prescribing the evidence required for establishing what is likely to happen at any time shall include power to provide for such matters to be presumed (whether conclusively or unless the contrary is shown in the manner provided for in the regulations) from evidence of what has previously happened.]
- [<sup>F53</sup>(4) Any power under this Chapter to make regulations authorising or requiring a document (whether or not of a particular description), or any records or information, to be issued, given or requested or to be sent, produced, returned or surrendered to the Board shall include power—
- (a) to authorise the Board to nominate a person who is not an officer of the Board to be the person who on behalf of the Board—
    - (i) issues, gives or requests the document, records or information; or
    - (ii) is the recipient of the document, records or information;and
  - (b) to require the document, records or information, in cases prescribed by or determined under the regulations, to be sent, produced, returned or surrendered to the address (determined in accordance with the regulations) of the person nominated by the Board to receive it on their behalf.
- (5) Any power under this Chapter to make regulations imposing requirements with respect to any description of document, with respect to documents generally or with respect to any records or information shall include power to make provision, subject to such conditions as may be prescribed by or determined in accordance with the regulations—
- (a) for the documents, records or information to be allowed to take an electronic form so prescribed or determined;
  - (b) for the issue, completion, furnishing, production, keeping, cancellation, return, surrender or giving of the documents, records or information to be something that has to be or may be done by the electronic means so prescribed or determined; and
  - (c) for the manner of proving in any proceedings the contents or transmission of anything that, by virtue of any regulations under this Chapter, takes an electronic form or is transmitted to any person by electronic means.]

#### Textual Amendments

- F49** Words in s. 566(2)(c) repealed (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(8\)](#)
- F50** Words in s. 566(2) repealed (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(32\)](#)
- F51** [S. 566\(2A\)-\(2F\)](#) inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [s. 178\(1\)](#)
- F52** [S. 566\(3\)](#) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 7 para. 9](#)
- F53** [S. 566\(4\)\(5\)](#) inserted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 8 para. 6](#)

#### Modifications etc. (not altering text)

- C10** *For regulations see Part III Vol.5. And see 1970(M) s.98A—special penalties in the case of certain returns.*

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#### **Marginal Citations**

**M39** Source-1975 (No.2) s.69(6)

**M40** Source-1975 (No.2) s.70(7); 1982 Sch.8 4; 1987 (No.2) s.93 (5), (6)

### **567 Meaning of “construction operations”.**

- (1)<sup>M41</sup>In this Chapter “construction operations” means operations of any description specified in subsection (2) below, not being operations of any description specified in subsection (3) below; and references to construction operations shall be taken—
- (a) except where the context otherwise requires, as including references to the work of individuals participating in the carrying out of such operations; and
  - (b) except in the case of offshore installations, as not including references to operations carried out or to be carried out otherwise than in the United Kingdom.
- (2)<sup>M42</sup>The following operations are, subject to subsection (3) below, construction operations for the purposes of this Chapter—
- (a) construction, alteration, repair, extension, demolition or dismantling of buildings or structures (whether permanent or not), including offshore installations;
  - (b) construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including (without prejudice to the foregoing) walls, roadworks, power-lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
  - (c) installation in any building or structure of systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection;
  - (d) internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
  - (e) operations which form an integral part of, or are preparatory to, or are for rendering complete, such operations as are previously described in this subsection, including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works;
  - (f) painting or decorating the internal or external surfaces of any building or structure.
- (3)<sup>M43</sup>The following operations are not construction operations for the purposes of this Chapter—
- (a) drilling for, or extraction of, oil or natural gas;
  - (b) extraction (whether by underground or surface working) of minerals; tunnelling or boring, or construction of underground works, for this purpose;
  - (c) manufacture of building or engineering components or equipment, materials, plant or machinery, or delivery of any of these things to site;
  - (d) manufacture of components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or delivery of any of these things to site;

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- (e) the professional work of architects or surveyors, or of consultants in building, engineering, interior or exterior decoration or in the laying-out of landscape;
  - (f) the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature;
  - (g) signwriting and erecting, installing and repairing signboards and advertisements;
  - (h) the installation of seating, blinds and shutters;
  - (j) the installation of security systems, including burglar alarms, closed circuit television and public address systems.
- (4) <sup>M44</sup>In this section “offshore installations” means installations which are maintained, or are intended to be established, for underwater exploitation or exploration to which the <sup>M45</sup>Mineral Workings (Offshore Installations) Act 1971 applies.
- (5) <sup>M46</sup>The Treasury may by order—
- (a) include in subsection (2) above any description of operations as to which they are satisfied that it is a normal activity of the construction industry and that its inclusion in that subsection is necessary for achieving the object of section 559;
  - (b) include in subsection (3) above any description of operations as to which they are satisfied that it cannot properly be considered a normal activity of the construction industry and ought to be excluded from subsection (2) above.
- (6) An order under subsection (5) above shall not have effect unless a draft of the instrument containing it has been laid before and approved by a resolution of the House of Commons.

**Modifications etc. (not altering text)**

**C11** *For regulations see Part III Vol.5.*

**Marginal Citations**

- M41** Source-1975 (No.2) s.71(8)
- M42** Source-1975 (No.2) Sch.13 Pt.I
- M43** Source-1975 (No.2) Sch.13 Pt.II; 1980/1171
- M44** Source-1975 (No.2) s.71(8), Sch.13, Pt.I
- M45** 1971 c. 61.
- M46** Source-1975 (No.2) s.71 (9) (10)

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