
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Business Contract Terms (Assignment
of Receivables) Regulations 2018**

Exception for suppliers who are large enterprises or special purpose vehicles

3.—(1) Regulation 2 does not apply and accordingly a term mentioned in that regulation does have effect in relation to the assignment of a receivable if at the time of the assignment the supplier is a large enterprise or a special purpose vehicle.

(2) A supplier is a large enterprise unless it satisfies one of the conditions in paragraph (3) and in paragraph (3) “relevant financial year” means the last financial year (before the date on which the receivable is assigned) in respect of which the supplier has filed accounts.

(3) The conditions in this paragraph are—

- (a) the supplier is an individual, a partnership (other than an LLP or a limited partnership) or an unincorporated association;
- (b) the supplier is a company to which the small companies regime (within the meaning given by sections 381 to 384 of the Companies Act 2006) applied in the relevant financial year and which was not a member of a large group in the relevant financial year;
- (c) the supplier is a company which qualified as medium-sized (within the meaning given by sections 465 to 467 of the Companies Act 2006) in respect of the relevant financial year and which was not a member of a large group in the relevant financial year;
- (d) the supplier is a company (other than an unlimited company exempt under section 448 of the Companies Act 2006 from the obligation to file accounts) that has not filed accounts since its incorporation and whose accounts are not overdue and which is not a member of a large group;
- (e) the supplier is an unlimited company exempt under section 448 of the Companies Act 2006 from the obligation to file accounts, that has not filed accounts since its incorporation and whose accounts would not be overdue if the exemption under that section did not apply and which is not a member of a large group;
- (f) the supplier is an LLP to which the small LLPs regime (within the meaning given by the Companies Act 2006, as applied with modifications by regulation 5 of the Limited Liability Partnerships (Accounts and Audit) (Application of the Companies Act 2006) Regulations 2008), applied in the relevant financial year and which was not a member of a large group in the relevant financial year;
- (g) the supplier is an LLP which qualified as medium-sized (within the meaning given by the Companies Act 2006, as applied with modifications by regulation 26 of the Limited Liability Partnerships (Accounts and Audit) (Application of the Companies Act 2006) Regulations 2008) in respect of the relevant financial year and which was not a member of a large group in the relevant financial year;
- (h) the supplier is an LLP that has not filed accounts since its incorporation and whose accounts are not overdue and which is not a member of a large group;

- (i) the supplier is a body corporate incorporated outside the United Kingdom which, if it were a company formed and registered under the Companies Act 2006, would have been a company to which the small companies regime (within the meaning given by that Act) would have applied in the relevant financial year and which would not have been a member of a large group in the relevant financial year;
 - (j) the supplier is a body corporate incorporated outside the United Kingdom which, if it were a company formed and registered under the Companies Act 2006, would have qualified as medium-sized (within the meaning given by that Act) in respect of the relevant financial year and which would not have been a member of a large group in the relevant financial year; and
 - (k) the supplier is a body corporate incorporated outside the United Kingdom that has not filed accounts since its incorporation and whose accounts would not be overdue, and which would not be a member of a large group if it were a company formed and registered under the Companies Act 2006.
- (4) A special purpose vehicle is a firm, wherever it is incorporated or established, that carries out a primary purpose in relation to—
- (a) the holding of assets (other than trading stock within the meaning of the Income Tax (Trading and Other Income) Act 2005(1)); or
 - (b) the financing of commercial transactions,
- which in either case involves it incurring a liability under an agreement of £10 million or more.
- (5) For the purposes of paragraph (4)—
- (a) where a liability is a contingent liability under or by virtue of a guarantee or an indemnity or security provided on behalf of another person, the amount of that liability is the full amount of the liability in relation to which the guarantee, indemnity or security is provided;
 - (b) where the amount of a liability is reduced or recourse in respect of it is limited by reference to the value of the special purpose vehicle’s assets at the time the liability is due, the amount of that liability is the full amount of the liability, ignoring that reduction or limit;
 - (c) the reference to a liability includes—
 - (i) a present or future liability whether, in either case, it is certain or contingent,
 - (ii) a reference to a liability to be paid wholly or partly in foreign currency (in which case the sterling equivalent shall be calculated as at the time when the liability was incurred).

(1) 2005 c. 5. “Trading stock” is defined in section 174.