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## SCHEDULES

### SCHEDULE 12

Section 70.

#### SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY: CONDITIONS OF ISSUE OF CERTIFICATES

#### PART I

##### CONDITIONS TO BE SATISFIED BY INDIVIDUALS

- 1 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 paragraphs 3 and 4 below; and
  - (d) the business is carried on from proper premises and with proper equipment, stock and other facilities.
- 2 The applicant, unless he is the holder of a certificate which is in force under section 30 of the Finance Act 1971 or under section 70 of this Act, must throughout the period of three years ending with the date of his application for a certificate under section 70 of this Act (in this Part of this Schedule referred to as " the qualifying period "), have been employed in the United Kingdom as the holder of an office or employment or as a person carrying on a trade, profession or vocation.
- 3 (1) The applicant must, subject to sub-paragraph (2) below, have complied with all obligations imposed on him by or under the Income Tax Acts or the Taxes Management Act 1970 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.  
  
(2) An applicant who has failed to comply with such an obligation or request as is referred to in sub-paragraph (1) above shall nevertheless be treated as satisfying this condition as regards that obligation or request if the Board are of the opinion that in all the circumstances the failure ought to be disregarded for the purposes of his application for a certificate under section 70 of this Act.
- 4 The applicant must, if any contribution has at any time during the qualifying period become due from him under Part I of the National Insurance Act 1965 or Part I of the National Insurance Act (Northern Ireland) 1966, as the case may be, or under Part I of the Social Security Act 1975 or Part I of the Social Security (Northern Ireland)

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Act 1975, as the case may be, have paid the contribution when the contribution became due.

- 5 The applicant must, if he is required to be registered under the Registration of Business Names Act 1916 in respect of the business referred to in paragraph 1 above, have been duly registered under that Act in respect of that business.
- 6 (1) Subject to sub-paragraph (2) below, there must be in force a policy or policies of insurance covering the applicant's relevant public liability in respect of the business referred to in paragraph 1 above and effected by him with an authorised insurer or insurers in a sum not less or not less in the aggregate than £250,000.
- (2) Sub-paragraph (1) above does not apply to an applicant whose business consists of the furnishing or arranging for the furnishing of labour in carrying out construction operations or whose business includes any of those activities but does not also include the carrying out of construction operations.
- 7 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 paragraphs 3 and 4 above and with such requests as are referred to in paragraph 3 above.

## PART II

### CONDITIONS TO BE SATISFIED BY PARTNERS WHO ARE INDIVIDUALS

- 1 The partner, unless he is the holder of a certificate in force under section 30 of the Finance Act 1971 or under section 70 of this Act, must throughout the period of three years ending with the date of his application for a certificate under section 70 of this Act (in this Part of this Schedule referred to as " the qualifying period ") have been employed in the United Kingdom as the holder of an office or employment or as a person carrying on a trade, profession or vocation.
- 2 (1) The partner must, subject to sub-paragraph (2) below, have complied with all obligations imposed on him by or under the Income Tax Acts or the Taxes Management Act 1970 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.
- (2) A partner who has failed to comply with such an obligation or request as is referred to in sub-paragraph (1) above shall nevertheless be treated as satisfying this condition as regards that obligation or request if the Board are of the opinion that in all the circumstances the failure ought to be disregarded for the purposes of his application for a certificate under section 70 of this Act.
- 3 The partner must, if any contribution has at any time during the qualifying period become due from him under Part I of the National Insurance Act 1965 or Part I of the National Insurance Act (Northern Ireland) 1966, as the case may be, or under Part I of the Social Security Act 1975 or Part I of the Social Security (Northern Ireland) Act 1975, as the case may be, have paid the contribution when the contribution became due.
- 4 There must be reason to expect that the partner will, in respect of periods ending after the end of the qualifying period, comply with such obligations as are referred to in paragraphs 2 and 3 above and with such requests as are referred to in paragraph 2 above.

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### PART III

#### CONDITIONS TO BE SATISFIED BY FIRMS

- 1 The firm's business must be carried on in the United Kingdom and must satisfy the conditions mentioned in paragraph 1(a) to (d) of Part I of this Schedule.
- 2 (1) Subject to sub-paragraph (2) below, any income tax or corporation tax which became due from any partner in the firm in respect of the firm's business at any time in the period of three years ending with the date of the application for a certificate under section 70 of this Act (in this Part of this Schedule referred to as "the qualifying period ") must have been paid when the tax was demanded.  
  
(2) Where the obligation referred to in sub-paragraph (1) above has not been complied with in the case of any firm, the firm shall nevertheless be treated as satisfying this condition as regards that tax if the Board are of the opinion that in all the circumstances the failure ought to be disregarded for the purposes of the application under section 70 of this Act.
- 3 The firm must, if it is required to be registered under the Registration of Business Names Act 1916 in respect of the business referred to in paragraph 1 above, have been duly registered under that Act in respect of that business.
- 4 (1) Subject to sub-paragraph (2) below, there must be in force a policy or policies of insurance covering the relevant public liability of every partner in the firm in respect of the business referred to in paragraph 1 above and effected on behalf of the firm with an authorised insurer or insurers in a sum not less or not less in the aggregate than £250,000.  
  
(2) Sub-paragraph (1) above does not apply to a firm whose business consists of the furnishing or arranging for the furnishing of labour in carrying out construction operations or whose business includes any of those activities but does not also include the carrying out of construction operations.
- 5 There must be reason to expect that income tax or corporation tax becoming due in respect of the firm's business in respect of periods ending after the end of the qualifying period will be paid when it is demanded.

### PART IV

#### CONDITIONS TO BE SATISFIED BY COMPANIES

- 1 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 paragraph 1(a) to (d) of Part I of this Schedule.
- 2 (1) The company must, subject to sub-paragraph (2) below, have complied with all obligations imposed on it by or under the Income Tax Acts, the Corporation Tax Acts or the Taxes Management Act 1970 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.  
  
(2) A company which has failed to comply with such an obligation or request as is referred to in sub-paragraph (1) above shall nevertheless be treated as satisfying this condition as regards that obligation or request if the Board are of the opinion that

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in all the circumstances the failure ought to be disregarded for the purposes of the company's application for a certificate under section 70 of this Act.

- (3) "Qualifying period ", in this Part of this Schedule, means the period of three years ending with the date of the company's application for a certificate under section 70 of this Act.
- 3       The company must, if any contribution has at any time during the qualifying period become due from the company under Part I of the National Insurance Act 1965 or Part I of the National Insurance Act (Northern Ireland) 1966, as the case may be, or under Part I of the Social Security Act 1975 or Part I of the Social Security (Northern Ireland) Act 1975, as the case may be, have paid the contribution when the contribution became due.
- 4       The company must, if it is required to be registered under the Registration of Business Names Act 1916 in respect of the business referred to in paragraph 1 above, have been duly registered under that Act in respect of that business.
- 5       (1) Subject to sub-paragraphs (2) and (3) below, there must be in force a policy or policies of insurance covering the company's relevant public liability in respect of the business referred to in paragraph 1 above and effected by the company with an authorised insurer or insurers in a sum not less or not less in the aggregate than £250,000.
- (2) Sub-paragraph (1) above does not apply to a company whose business consists of the furnishing or arranging for the furnishing of labour in carrying out construction operations or whose business includes any of those activities but does not also include the carrying out of construction operations.
- (3) Sub-paragraph (1) above does not apply where—
- (a) the company carries on the business referred to in paragraph 1 above in partnership with another person;
- (b) the company's application for the issue of a certificate under section 70 of this Act is for its issue to the company as a partner in that firm ; and
- (c) there is in force a policy or policies of insurance covering the relevant public liability of every partner in that firm in respect of the firm's business in so far as it is required by paragraph 4 of Part III of this Schedule.
- 6       (1) The company must have complied with any obligations imposed on the company by the following provisions of the Companies Act 1948 or by the corresponding provisions of the Companies Act (Northern Ireland) 1960, as the case may be, in so far as those obligations fell to be complied with within the qualifying period, that is to say—
- (a) section 107 (registered office and notification of changes therein);
- (b) section 124 (annual return of company having a share capital);
- (c) section 125 (annual return of company not having a share capital);
- (d) section 126 (time for completion of annual return);
- (e) section 127 (documents to be annexed to annual return);
- (f) section 200(4) (return of directors and secretary and notification of changes therein);
- (g) section 407 (registration of constitutional documents and list of directors and secretary of overseas company);
- (h) section 409 (notification of changes in constitution or directors or secretary of overseas company);

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- (i) section 410 (accounts of oversea company);
- (j) section 411 (oversea company to state its name and country of incorporation);
- (k) section 416 (obligations of companies incorporated in Channel Islands or Isle of Man).

(2) In this paragraph " the corresponding provisions of the Companies Act (Northern Ireland) 1960 " means the following provisions of that Act, that is to say, sections 104, 119, 120, 121, 122, 191(6), 356, 358, 359 and 360.

7        There must be reason to expect that the company will, in respect of periods ending after the end of the qualifying period, comply with such obligations as are referred to in paragraphs 2, 3 and 6 above and with such requests as are referred to in paragraph 2 above.