

## SCHEDULE

Article 3

### Interpretation

1. In this Schedule, unless the context otherwise requires—
  - (a) “agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947<sup>(1)</sup> or, in relation to Scotland, as in section 85(1) of the Agricultural Holdings (Scotland) Act 1991<sup>(2)</sup>;
  - (b) “charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988<sup>(3)</sup>;
  - (c) “a labour-only agreement” means any agreement or arrangement, either written or oral, not being a contract of service or of apprenticeship or for provision of professional services, between an employer and any other person or persons, the purpose of which is wholly or mainly the provision of services of such person or persons or of any other person or persons to the employer in his trade or business;
  - (d) “emoluments” means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1988 (other than pensions), being emoluments from which tax under that Schedule is deductible, whether or not tax in fact falls to be deducted from any particular payment thereof.
2. For the purposes of this Schedule the following provisions shall have effect—
  - (a) no regard shall be had to any person employed wholly in the supply of food or drink for immediate consumption or in agriculture or who was normally working for an aggregate of less than 8 hours weekly;
  - (b) no regard shall be had to a company director remunerated solely by fees but, save as aforesaid, the provisions of this Schedule shall apply to a company director (including a person occupying the position of director by whatever name he is called) as they apply to other persons;
  - (c) in the case of a construction establishment that is taken over (whether directly or indirectly) by an employer in succession to, or jointly with another person, the person or persons carrying on the establishment on the day upon which this Order comes into force shall be treated as the employer of any person who was employed at any time in the period of twelve months that commenced on 6th April 1991 at or from the establishment under a contract of service or of apprenticeship or under a labour-only agreement and that employer shall be assessed to levy in accordance with paragraph 3 of this Schedule.

### Basic assessment rules

3.—(1) Subject to the exemptions in paragraphs 4 and 5(1) below, the amount to be assessed by way of levy in respect of a construction establishment (being an establishment carrying on business in the twenty-eighth levy period) shall be the aggregate of the amount (if any) by which 2 per cent. of the labour-only payments exceeds 2 per cent. of labour-only receipts and an amount equal to 0.25 per cent. of the aggregate of the emoluments.

- (2) For the purposes of sub-paragraph (1) above—
  - (a) “2 per cent. of labour-only payments” means the sum which (rounded down where necessary to the nearest £1) represents 2 per cent. of all payments (other than the payments which are not in respect of the provision for services) made to any persons by the employer

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(1) 1947 c. 48.  
(2) 1991 c. 55.  
(3) 1988 c. 1.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

during the period of 12 months that commenced on 6th April 1991 under labour-only agreements in respect of work carried out at or from the establishment;

- (b) “2 per cent. of labour-only receipts” means the sum which (rounded down where necessary to the nearest £1) represents 2 per cent. of all payments (other than the payments which are not in respect of the provision for services) received by the employer during the period of 12 months that commenced on 6th April 1991 from any other employers in the construction industry under labour-only agreements in respect of work carried out at or from the establishment;
- (c) “0.25 per cent. of the aggregate of the emoluments” means an amount equal to 0.25 per cent. of the aggregate of the emoluments and payments intended to be disbursed as emoluments which have been paid or are payable by the employer to or in respect of persons employed in the industry in respect of the period of twelve months which commenced on 6th April 1991.

#### **Exemption of charities**

- 4. A charity shall be exempt from the levy.

#### **Exemption of small employers**

5.—(1) There shall be exempt from the levy an employer in whose case the aggregate amount of—

- (a) the sum of the emoluments of all the persons employed at or from the construction establishment or establishments of the employer in the period of 12 months that commenced on 6th April 1991, and
- (b) all such sums (if any) as were paid in the said period by the employer to any person under a labour-only agreement at or from the said establishment or establishments,

was less than £45,000.

- (2) For the purposes of sub-paragraph (1) above article 3(2) of this Order shall be disregarded.

#### **Cessation of business**

6. The amount of the levy imposed in respect of a construction establishment that ceases to carry on business in the twenty-eighth levy period shall be in the same proportion to the amount that would otherwise be due in accordance with the foregoing provisions of this Schedule as the number of days between the commencement of the said levy period and the date of cessation of business (both dates inclusive) bears to the number of days in the said levy period.