

SCHEDULE 1

Article 2

THE CONSTRUCTION INDUSTRY

1. Subject to the provisions of this Schedule, the activities of the construction industry are the following activities in so far as they are carried out in Great Britain:—

- (a) all operations in—
 - (i) the construction, alteration, repair or demolition of a building or part of a building;
 - (ii) the construction or demolition of a railway-line, siding or monorail;
 - (iii) the construction, structural alteration, repair or demolition of any aerodrome, airport, bridge, road, viaduct, dock, harbour, pier, quay, wharf, coast protection, river or drainage work, aqueduct, canal, inland navigation, reservoir, waterworks, bore-hole, well (other than an oil well), filter bed, sewage works, sewer, cooling tower or pond, tunnel, heading, adit, chimney, furnace, carbonising or gas making or gas treatment works, nuclear or thermal power station, hydro-electric station, electric line or any structure designed for its support, cable trench or duct, oil refinery, pipe-line or defence installation;
 - (iv) the sinking of a shaft or bore-hole in a mine of coal, stratified ironstone, shale or fireclay, or the construction of a road below ground in such a mine;
 - (v) the construction or repair of a swimming pool or other bathing place, or of a playing field or ground for sporting or recreational purposes, or the laying out of a cemetery;
 - (vi) the preparation of the site or the laying down of a foundation or sub-structure in connection with any of the above-mentioned operations or with the erection of structural metalwork;
 - (vii) the manufacture, wholly or mainly from concrete or cast stone, on the site of any building work or civil engineering work and for the purposes of any operations above-mentioned carried out on the site of the building work or civil engineering work, of any of the following products, that is to say, industrialised building components or sections, prefabricated buildings or sections of buildings, beams, columns, piles, caissons, tunnel segments or other civil engineering sections or structures or parts of structures;
 - (viii) the erection, repair or dismantling of walls, hoardings or scaffolding;
 - (ix) the working of bituminous coal, cannel coal or anthracite by open-cast operations or the screening, washing or other preparation of coal on the site of opencast workings;
 - (x) the restoration of land affected by the working of coal by opencast operations, or of land which has been excavated in the course of winning or working ironstone by opencast operations;
- (b) the cutting and bending of reinforcing steel for the purposes of any operations above-mentioned when carried out on the site of any building work or civil engineering work;
- (c) the manufacture of—
 - (i) doors, window frames, built-in storage units, stairs or curtain walling being articles wholly or mainly of wood;
 - (ii) bank, church or laboratory joinery or joinery of any other kind;
- (d) the construction of shop, office or similar fittings on the premises on which they are to be installed, or the prefabrication elsewhere of such fittings by the employer engaged in the installation;
- (e) the erection or dismantling of exhibition stands;

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- (f) the installation, testing, inspection, maintenance or repair of contractors' plant, or the letting out on hire of such plant or of scaffolding;
- (g) the preparation of stone for building purposes;
- (h) any activities (other than those above-mentioned) being—
 - (i) related activities incidental or ancillary to principal activities of the construction industry; or
 - (ii) activities undertaken in the administration, control or direction of one or more establishments, being establishments engaged wholly or mainly in principal activities of that industry, in related activities incidental or ancillary thereto, or in the administration, control or direction of one or more other establishments engaged in such principal or related activities;and carried out, in either case, by the employer engaged in those principal activities or, where that employer is a company, by the company or by an associated company of the company;
- (i) any activities of industry or commerce (other than construction activities) carried out at or from an establishment mainly engaged:—
 - (i) in construction activities; or
 - (ii) in construction activities and in activities described in the Appendix to this Schedule, but to a greater extent in construction activities than in activities described in that Appendix in relation to any one industry.

2. Notwithstanding anything contained in this Schedule, there shall not be included in the activities of the construction industry:—

- (a) the activities of any establishment engaged—
 - (i) mainly in activities not being construction activities or activities described in the Appendix to this Schedule; or
 - (ii) to a less extent in construction activities than in activities described in that Appendix in relation to any one industry;
- (b) the activities of any establishment engaged wholly or mainly in related activities, being activities—
 - (i) incidental or ancillary to the activities of one or more establishments (in this subparagraph hereafter referred to as “the principal establishment”) engaged wholly or mainly in any activities not being principal activities of the construction industry; and
 - (ii) carried out by the employer carrying on the principal establishment or, where the employer is a company, by the company or by an associated company of the company;
- (c) the activities of any establishment engaged wholly or mainly in the activities following or any of them, that is to say—
 - (i) the erection of the main framework of buildings, being framework of metallic construction;
 - (ii) the erection of other structures consisting wholly or mainly of metal (not being structures forming part of a building, electric lines or structures designed for the support thereof, walls, fencing, hoardings, exhibition stands, scaffolding or contractors' plant);
 - (iii) the assembly, construction, erection, installation, fitting, testing, inspection, thermal insulation, repair or replacement on site of any chemical, electrical or mechanical

- apparatus, machinery or plant of a chemical works, gas making or gas treatment works, nuclear or thermal power station, hydro-electric station, oil refinery or oil terminal or other apparatus, machinery or plant concerned with exploration for or exploitation of oil or gas, metal smelter, steel mill, paper mill or brewery;
- (iv) the planning, designing, commissioning or procuring by way of contract or otherwise of any apparatus, machinery or plant mentioned in sub-paragraph (iii) above carried on in association with any activity mentioned in that sub-paragraph or in association with any project for such an activity;
 - (v) the supervision of the assembly, construction, erection, installation, fitting, testing, inspection, repair or replacement of any apparatus, machinery or plant mentioned in sub-paragraph (iii) above when carried out on site;
 - (vi) the installation, testing, inspection or repair of machinery or plant (other than contractors' plant);
 - (vii) the manufacture, wholly or mainly from concrete and tiles or from stone set in concrete, of fire-places;
 - (viii) the application of any form of chemical treatment to wood, being part of a building, for preventing or remedying the presence of insects, mites, fungi or marine organisms;
 - (ix) the assembly, installation, cleaning or repair of venetian blinds;
 - (x) the making of inside or outside blinds or awnings or the installation of such blinds by the manufacturer thereof;
 - (xi) the laying out of golf courses, bowling greens or gardens;
 - (xii) any operation in thatching;
 - (xiii) any operation in terrazzo-mosaic work;
 - (xiv) the quarrying, dressing or fitting of Collyweston slates;
 - (xv) the construction or repair of bakers' ovens;
 - (xvi) the preparation of stone for monumental purposes; or
 - (xvii) banking, finance or insurance;
 - (xviii) the provision or continued provision for any building or other construction or work or operations carried out on any site referred to in paragraph 1(a)(i) to (vii) of this Schedule of water, gas, electricity, lighting, heating, ventilation or air-conditioning, where undertaken in, upon, above or under the building or the close curtilage or precincts thereof, or such construction or work or operations on any such site;
 - (xix) the fabrication, installation, fitting, removal and replacement of sealed unit glazing or fenestration systems in any building or on the site of any building work or civil engineering works, not being operations included in paragraph 1(c), (d) or (e) of this Schedule;
 - (xx) the manufacture or fabrication of building products from timber or timber based materials where the activity is automated and carried out away from the site of any building work or civil engineering works;
 - (xxi) the laying of synthetic surfaces on tennis courts, soccer pitches, hockey pitches, multi-sports pitches, cricket wickets, athletics tracks and training areas, horse racing tracks, gallops and maneges or playgrounds;
- (d) the activities of—

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- (i) a harbour authority within the meaning of the Harbours Act 1964(1) when acting in that capacity;
- (ii) the United Kingdom Atomic Energy Authority;
- (e) the activities of a local authority;
- (f) the activities of a charity;
- (g) the activities of any company, association or body that is required by its constitution to apply its profits, if any, or other income in promoting its objects and is prohibited thereby from paying any dividend to its members, and that has for its sole or principal object or among its principal objects the provision of facilities for any of the purposes mentioned in section 15(1) of the Disabled Persons (Employment) Act 1944(2) (which relates to the provision for registered persons who are seriously disabled of work or training);
- (h) any work, occupation or training that is provided in accordance with arrangements made by a local authority under the Disabled Persons (Employment) Act 1958(3) or any other enactment that authorises or requires the provision of arrangements for persons suffering from illness, severe physical defect or disability or from mental disorder, or for persons who have been suffering from illness or whose care is undertaken with a view to preventing them from becoming ill, or for old people;
- (i) any activities in agriculture; or
- (j) the supply of food or drink for immediate consumption.

3. In this Schedule, unless the context otherwise requires:–

“agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947(4) or, in relation to Scotland, as in section 85(1) of the Agricultural Holdings (Scotland) Act 1991(5);

“building” includes any erection in the nature of a building;

“charity” has the same meaning as in section 506 of the Income and Corporation Taxes Act 1988(6);

“company” includes any body corporate, and “subsidiary” has the same meaning as by virtue of section 736 of the Companies Act 1985(7) it has for the purposes of that Act;

“concrete” includes pre-cast, pre-stressed, reinforced or autoclaved aerated concrete;

“construction activities” means any one or more of the principal activities of the construction industry and the activities included in that industry by virtue of paragraph 1(h) of this Schedule;

“contractors' plant” means machinery, plant or equipment of a kind used or intended for use in operations on the site of any building work or civil engineering work, but does not include lorries, ready-mixed concrete vehicles or other mechanically propelled vehicles mainly used for the carriage of goods on roads;

“drainage work” does not include drainage by the methods of tile drainage, mole drainage or surface gripping or the construction or maintenance of open or piped farm ditches;

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity, or any apparatus connected therewith;

“letting out on hire” does not include any arrangement in the nature of hire purchase;

(1) 1964 c. 40.
(2) 1944 c. 10.
(3) 1958 c. 33.
(4) 1947 c. 48.
(5) 1991 c. 55.
(6) 1988 c. 1.
(7) 1985 c. 6.

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“local authority” means—

- (a) in relation to England and Wales, a local authority within the meaning of the Local Government Act 1972⁽⁸⁾ or the Common Council of the City of London, and includes a joint board or joint committee of such authorities;
- (b) in relation to Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973⁽⁹⁾ and includes a joint board or joint committee of such authorities;

“manufacture” includes assembly or any process or operation incidental or appertaining to manufacture or assembly;

“office premises” has the same meaning as in section 1(2) of the Offices, Shops and Railway Premises Act 1963⁽¹⁰⁾;

“pipe-line” does not include a pneumatic dispatch tube;

“principal activities of the construction industry” means activities which, subject to the provisions of paragraph 2 of this Schedule, are specified in paragraph 1, other than subparagraphs (h) and (i) thereof, as activities of the construction industry;

“related activities” means any of the following activities, that is to say—

- (a) research, development, design or drawing;
- (b) buying, selling, letting out on hire, testing, advertising, packing, distribution, transport or any similar operations;
- (c) operations of a kind performed at office premises or laboratories or at stores; warehouses or similar places;
- (d) cleaning, washing or garaging vehicles or carrying out running repairs or minor adjustments thereto;
- (e) training of employees or apprentices;

“repair” in relation to a building includes maintenance, re-pointing, re-decoration and external cleaning;

“road below ground” does not include an unwalkable outlet;

“shaft” means a shaft the top of which is, or is intended to be, at the surface;

“site of any building work or civil engineering work” means the site of any operations mentioned in heads (i) to (vi) of paragraph 1(a) of this Schedule, and includes any other place occupied temporarily by the person carrying out such operations, being a place where the activities carried out are the manufacture, wholly or mainly from concrete or cast stone and solely for the purposes of the said operations, of any products specified in paragraph 1(a)(vii) of this Schedule.

4.—(1) References in this Schedule to the provisions of any enactment shall be construed as references to those provisions as amended by or under any subsequent enactment.

(2) For the purposes of this Schedule two companies shall be taken to be associated companies if one is a subsidiary of the other, or both are subsidiaries of a third company, and “associated company” shall be construed accordingly.

⁽⁸⁾ 1972 c. 70.

⁽⁹⁾ 1973 c. 65.

⁽¹⁰⁾ 1963 c. 41.

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APPENDIX

The activities specified as those of the engineering construction industry in Schedule 1 to the Industrial Training (Engineering Board) Order 1964⁽¹¹⁾ other than those so specified in paragraph 1(d) of that Schedule.

⁽¹¹⁾ S.I.1964/1086, amended by S.I. 1991/1305.