

SCHEDULE 2

Claimant treated as liable or not liable to make payments

PART 2

Treated as not liable to make payments

Liability to make rent and other payments to company

6.—(1) A claimant is to be treated as not liable to make rent payments where the liability to make them is owed to a company and the owners or directors of the company include—

- (a) the claimant;
- (b) if the claimant is a member of a couple, the other member;
- (c) a qualifying young person for whom a person who falls within paragraph (a) or (b) is responsible; or
- (d) a close relative of any of the above who lives in the accommodation with the claimant.

(2) A claimant who is treated under sub-paragraph (1) as not liable to make rent payments to the company is also to be treated as not liable to make service charge payments where the liability to make the service charge payments is to—

- (a) the same company; or
- (b) another company of which the owners or directors include any of the persons listed in sub-paragraph (1)(a) to (d).

(3) In this paragraph, “owner”, in relation to a company (“C”), means a person (“A”) who has a material interest in C.

(4) For the purposes of sub-paragraph (3), A has a material interest in C if A—

- (a) holds at least 10% of the shares in C; or
- (b) is able to exercise a significant influence over the management of C by virtue of A’s shareholding in C; or
- (c) holds at least 10% of the shares in a parent undertaking (“P”) of C; or
- (d) is able to exercise a significant influence over the management of P by virtue of A’s shareholding in P; or
- (e) is entitled to exercise, or control the exercise of, voting power in C which, if it consists of voting rights, constitutes at least 10% of the voting rights in C; or
- (f) is able to exercise a significant influence over the management of C by virtue of A’s entitlement to exercise, or control the exercise of, voting rights in C; or
- (g) is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P; or
- (h) is able to exercise a significant influence over the management of P by virtue of A’s entitlement to exercise, or control the exercise of, voting rights in P.

(5) For the purposes of sub-paragraph (4), references to “A” are to—

- (a) the person; or
- (b) any of the person’s associates; or
- (c) the person and any of the person’s associates taken together.

(6) For the purposes of sub-paragraph (5), “associate”, in relation to a person (“A”) holding shares in an undertaking (“X”) or entitled to exercise or control the exercise of voting power in relation to another undertaking (“Y”), means—

- (a) the spouse or civil partner of A;
- (b) a child or step-child of A (if under 18);
- (c) the trustee of any settlement under which A has a life interest in possession (in Scotland a life interest);
- (d) an undertaking of which A is a director;
- (e) a person who is an employee or partner of A;
- (f) if A has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in X or Y, that other person;
- (g) if A has with any other person an agreement or arrangement under which they undertake to act together in exercising their voting power in relation to X or Y, that other person.

(7) In sub-paragraph (6)(c), “settlement” means any disposition or arrangement under which property is held on trust (or subject to comparable obligations).

(8) For the purposes of this paragraph—

“parent undertaking” has the same meaning as in the Financial Services and Markets Act 2000⁽¹⁾ (see section 420 of that Act);

“shares” means—

- (a) in relation to an undertaking with shares, allotted shares (within the meaning of Part 17 of the Companies Act 2006⁽²⁾);
- (b) in relation to an undertaking with capital but no share capital, rights to share in the capital of the body;
- (c) in relation to an undertaking without capital, interests—
 - (i) conferring any right to share in the profits, or liability to contribute to the losses, of the body, or
 - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up;

“voting power”, in relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, means the rights under the constitution of the undertaking to direct the overall policy of the undertaking or alter the terms of its constitution.

(1) 2000 c.8.

(2) 2006 c.1.