

## SCHEDULE

Regulation 4

### Exemption for existing micro-businesses and new businesses

#### Micro-businesses

1. A micro-business is a business that has fewer than 10 employees.

#### Existing micro-businesses

2. An existing micro-business is a business that was a micro-business immediately before the date of judgment.

#### New businesses

- 3.—(1) A new business is a business which a person, or a number of persons, (“P”) begins to carry on during the period of 12 months ending with the date of complaint.

- (2) But a business is not a new business if—

- (a) P has, at any time during the period of 6 months ending immediately before the date on which P begins to carry on the business, carried on another business consisting of the activities of which the business consists (or most of them); or

- (b) P carries on the business as a result of a transfer (within the meaning of sub-paragraph (4)).

- (3) Sub-paragraph (2)(a) does not apply if the other business referred to in that paragraph was a new business (within the meaning of this Schedule).

- (4) P carries on a business as a result of a transfer if P begins to carry on the business on another person ceasing to carry on the activities of which it consists (or most of them) in consequence of arrangements involving P and the other person.

- (5) For this purpose, P is to be taken to begin to carry on a business on another person ceasing to carry on such activities if—

- (a) the business begins to be carried on by P otherwise than in partnership on such activities ceasing to be carried on by persons in partnership; or

- (b) P is a number of persons in partnership who begin to carry on the business on such activities ceasing to be carried on—

- (i) by a person, or a number of persons, otherwise than in partnership;

- (ii) by persons in partnership who do not consist only of all the persons who constitute P; or

- (iii) partly as mentioned in paragraph (i) and partly as mentioned in paragraph (ii).

- (6) Sub-paragraph (2)(b) does not apply if the activities referred to in sub-paragraph (4) were, when carried on by the person who is not P referred to in that paragraph, activities of a new business (within the meaning of this Schedule).

- (7) P is not to be regarded as beginning to carry on a business for the purposes of sub-paragraph (1) if—

- (a) before P begins to carry on the business, P is a party to arrangements under which P may (at any time during the period of 5 years beginning with the commencement date) carry on, as part of the business, activities carried on by any other person; and

- (b) the business would have been prevented by sub-paragraph (2)(b) from being a new business if—

- (i) P had begun to carry on the activities when beginning to carry on the business; and

(ii) the other person had at that time ceased to carry them on.

(8) “Arrangements” includes an agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

#### **The exemption period: existing micro-businesses**

4.—(1) The exemption period, in relation to an existing micro-business, is the period beginning with the commencement date and ending when the business is treated as ceasing to be a micro-business for the purpose of this paragraph or (if sooner) the day 10 years after the commencement date.

(2) A business is treated as ceasing to be a micro-business for the purpose of this paragraph on the day after the assessment period if, during an assessment period, the number of days when the business is not a micro-business is greater than the number of days when the business is a micro-business.

(3) An “assessment period”, in relation to an existing micro-business, is a period of 6 months beginning with—

- (a) the first day after the commencement date on which the business ceases to be a micro-business; or
- (b) where, during an earlier assessment period, the number of days when the business is not a micro-business is less than or equal to the number of days when the business is a micro-business—
  - (i) the day after the end of the earlier assessment period, if on that day the business is not a micro-business; or
  - (ii) the first day after the end of the earlier assessment period on which the business ceases to be a micro-business, in any other case.

#### **The exemption period: new businesses**

5.—(1) The exemption period, in relation to a new business, is the period beginning with the commencement date and ending with the date on which P ceases to carry on the business or (if sooner) the day 10 years after the commencement date.

(2) If P is a number of persons in partnership, P is not to be taken for this purpose to cease to carry on the business if—

- (a) the members of the partnership change, or the partnership is dissolved; and
- (b) after the change or dissolution, the business is carried on by at least one of the persons who constituted P.

#### **Number of employees of a business**

6.—(1) For the purposes of this Schedule, the number of employees of a business is taken to be the number of its full-time equivalent employees.

(2) The number of full-time equivalent employees of a business is calculated as follows—

$$TH / 37.5$$

where

*TH* is the total number of hours per week for which all the employees of the business are contracted to work.

### **Employees of a business**

7. For the purposes of this Schedule, the employees of a business are all persons who are employed for the purposes of the business.

### **Employees**

8.—(1) In this Schedule, “employee” means an individual who has entered into or works under a contract of employment.

(2) In sub-paragraph (1) “contract of employment” means a contract of service, whether express or implied, and (if it is express) whether oral or in writing.

### **The commencement date**

9. For the purposes of this Schedule, “commencement date” means the date on which these Regulations come into force.