

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⁽¹⁾ or, in relation to Scotland, as in section 86(3) of the Agriculture (Scotland) Act 1948⁽²⁾;
 - (b) “average number”, in relation to any category and description of persons employed at or from a construction establishment of an employer, means the number that is equal to the average of the numbers of the persons of that category and description specified in the first and second columns of the Appendix to this Schedule employed, or treated as employed under the provisions of paragraph 2(c) of this Schedule, at or from the establishment by the employer on the relevant dates or, in the case of an establishment that commenced to carry on business after the first of the relevant dates but before the second, the number of persons of that category and description specified as aforesaid and employed by the employer at or from the establishment on the second of the relevant dates;
 - (c) “charity” has the same meaning as in section 360 of the Income and Corporation Taxes Act 1970⁽³⁾;
 - (d) “clerical or miscellaneous worker” includes—
 - (i) a clerk and other office staff, including those working in sales, computers and stores, and supervisors of these staff;
 - (ii) a storeman;
 - (iii) a transport worker (but not a motor mechanic);
 - (iv) an operative or conversion fitter (excluding a gas fitter, a plumber or a heating and ventilating fitter), engaged in the conversion of appliances to natural gas or in the preliminary work;
 - (v) a terrazzo worker, including a terrazzo layer;
 - (vi) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker not comprised in any other category and description of worker specified in this Schedule or the appendix thereto;
 - (e) “craftsman (building)” means—
 - (i) a bricklayer, including a specialist bricklayer;
 - (ii) a carpenter joiner, including a carpenter, a joiner, a formwork carpenter, a joiner bench hand, a woodworking machinist or woodworking operative and a setter out;
 - (iii) a mason, including a monumental mason, a stone carver and a stone polisher;
 - (iv) a mason pavior, including a person involved in cutting and carving stone and who is following or has completed a course of further education being the City and Guilds of London Institute Course No. 588 on Masonry at Craft Level;
 - (v) a painter, including a painter and decorator, an industrial painter, a french polisher and a signwriter;
 - (vi) a plasterer, including a solid or fibrous plasterer, a moulder and a dry lining or partition operative;
 - (vii) a roof slater and tiler;

(1) 1947 c. 48
(2) 1948 c. 45
(3) 1970 c. 10

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- (viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (f) “craftsman (mechanical engineering services)” means—
 - (i) a gas fitter;
 - (ii) a beating and ventilating fitter, including a heating fitter;
 - (iii) an oil burner mechanic;
 - (iv) a pipe fitter;
 - (v) a plumber, including a chemical plumber, a plumber welder and a hot water fitter;
 - (vi) a refrigeration mechanic;
 - (vii) a welder, including an oxy-acetylene, metallic-arc or shielded-arc welder;
 - (viii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (g) “craftsman (electrical engineering services)” means—
 - (i) an electrician, including a cable jointer;
 - (ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
- (h) “craftsman (miscellaneous)” means—
 - (i) a thermal insulation operative or ductwork erector;
 - (ii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in either of the trades specified in this sub-paragraph or in any other trade not specified in this Schedule or the appendix thereto;
- (i) “specialist building operative” means—
 - (i) a floor or wall tiler, including a mosaic worker and a tile fixer;
 - (ii) a ceiling fixer, including a suspended ceiling erector and a metal fixer (ceiling systems);
 - (iii) a mastic asphalter, including a mastic asphalt spreader;
 - (iv) a floor coverer, including a parquet floorer and a vinyl, linoleum or carpet layer;
 - (v) a floorer, including a granolithic or other in situ floor finisher;
 - (vi) a glazier, including a double glazier, a window fixer, a patent glazier, a leaded light worker and a glass production or processing worker;
 - (vii) a demountable partition erector;
 - (viii) a steeplejack, including a lightning conductor erector;
 - (ix) a demolisher, including a general labourer using a compressed air drill or pneumatic punching machine or spade, a sorter, an improver, a mattockman, a topman, a burner topman, a burner groundsman, a shorer (timber) and a shorer’s mate;
 - (x) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades-specified in this sub-paragraph;

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- (j) “a labour-only agreement” means any agreement, not being a contract of service or of apprenticeship, made between an employer and any other person or persons whereby the services (including any incidental use of tools) of such person or persons, or of any other person or persons were rendered to the employer in his trade or business;
- (k) “the relevant dates” means 3rd October 1985 and 3rd April 1986;
- (l) “a skilled building and civil engineering worker” means—
 - (i) a concreter, including a bar bender and fixer, a pre-cast concrete erector and fixer, a pre-stressing or pre-tensioning operative, a concrete placer, a vibrator or finisher;
 - (ii) a diver, including a surface, demand or helmet diver and a life linesman;
 - (iii) an excavation operative, including a heading driver, a manhole builder, a pipe layer, a pipe jointer and a timberman;
 - (iv) a mechanical plant operator, including a mechanical equipment, compressor, air tool or paving machine operator, a mixerman, a potman, a banksman, a slinger, a plant driver, a dumper driver, a crane driver, an excavation plant operator, an earthmoving plant operator, a pumpman, an oiler and a greaser;
 - (v) a piling or well drilling operative, including a borer driver, a vibrator or specialist piling operative, a well or rock driller and a shaft sinker;
 - (vi) a tunnel miner, including a soft-heading miner;
 - (vii) a blacksmith, including a marker-out;
 - (viii) a steel erector;
 - (ix) a repetitive process factory worker;
 - (x) a gas distribution mains layer, including a service layer;
 - (xi) a plant mechanic, including a plant maintenance mechanic, a contractors' plant mechanic and a motor mechanic;
 - (xii) a tar pavior;
 - (xiii) a labourer or general operative mainly employed in any of the trade specified in this sub-paragraph or in sub-paragraph(e), (f), (g), (h), (i), or (n) of this paragraph who was entitled to extra payment for skill or responsibility under a Working Rule Agreement;
 - (xiv) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades mentioned in this sub-paragraph;
- (m) “a person employed in a managerial, administrative, professional or technical capacity” includes—
 - (i) a manager, including a contracts, site, area, sales or office manager;
 - (ii) an accountant or company secretary;
 - (iii) an estimator, surveyor or buyer;
 - (iv) an engineer or architect;
 - (v) a technical, planning or laboratory assistant, a draughtsman, a tracer or a design detailer;
 - (vi) a work study officer;
 - (vii) a personnel officer, a training officer or an instructor;

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- (viii) a person occupying the position of foreman or of works supervisor being a person who is not mainly employed as a manual worker whether in handling materials or otherwise;
 - (n) “a roof sheeter or felter” includes—
 - (i) a roof sheeter and cladder, an asbestos roofer, a galvanised or protected steel sheeter or an aluminium sheeter;
 - (ii) a roofing felt fixer and a roofing felt layer;
 - (iii) any other person (including a foreman, a ganger and a chargehand) mainly employed as a manual worker, otherwise than as a labourer or general operative, in any of the trades specified in this sub-paragraph;
 - (o) “trainee” means a person (including an apprentice) who is learning a managerial, administrative, professional, technical or manual skill and whose employer has undertaken to provide training for him in that skill for a specified period of not less than twelve months;
 - (p) “Working Rule Agreement” means any agreement as to pay, being an agreement between—
 - (i) parties who are or represent employers or organisations of employers or associations of such organisations; and
 - (ii) parties who are or represent organisations of employees or associations of such organisations; but includes also any award modifying or supplementing such an agreement .
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 and accordingly such a person shall be taken to be comprised in the category appropriate to the work in which he was mainly engaged;
 - (c) in the case of a construction establishment that is taken over (whether directly or indirectly) by a 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 operation shall be treated as the employer of any person who was employed on either or both of the relevant dates, or at any time in the period of twelve months that commenced on 6th April 1985 at or from the establishment under a contract of service or of apprenticeship or under a labour-only agreement, by the person then carrying on the establishment.

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, other than a brick-manufacturing establishment, (being an establishment carrying on business in the twenty-second levy period) shall be the aggregate of the amount (if any) by which 2% of the labour-only payments exceeds 2% of labour-only receipts and the amount of the occupational levy.

- (2) For the purposes of sub-paragraph (1) above:—
 - (a) “2% of labour-only payments” means the sum which (rounded down where necessary to the nearest £1) represents 2% of all payments made to any persons by the employer during

the period of 12 months that commenced on 6th April 1985 under labour-only agreements in respect of work carried out at or from the establishment;

- (b) “2% of labour-only receipts” means the sum which (rounded down where necessary to the nearest £1) represents 2% of all payments received by the employer during the period of 12 months that commenced on 6th April 1985 from any other employers in the construction industry under labour-only agreements in respect of work carried out at or from the establishment;
- (c) “the amount of the occupational levy” means the sum of the amounts (rounded down in each case where necessary to the nearest £1) produced by multiplying the appropriate amount in the third column of the appendix to this Schedule by the average number of persons employed by the employer at or from the establishment under contracts of service or apprenticeship in each relevant category and description of employment, less the amount (if any) by which 2% of labour-only receipts exceeds 2% of labour-only payments, provided that the amount of the occupational levy shall not exceed an amount equal to 1% 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 1985.

(3) Subject to the exemptions in paragraphs 4 and 5(2) below, the amount to be assessed by way of levy in respect of a brick-manufacturing establishment (being an establishment carrying on business in the twenty-second levy period) shall be equal to 0.05% 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 at or from the establishment under contracts of service or apprenticeship in respect of the period of 12 months which commenced on 6th April 1985.

(4) For the purposes of this paragraph and paragraph 5 below “a brick-manufacturing establishment” means a construction establishment engaged wholly or mainly in the manufacture of bricks from clay or calcium silicate for building purposes but excluding bricks made for refractory purposes.

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 (not being a brick-manufacturing establishment or brick-manufacturing establishments) in the period of 12 months that commenced on 6th April 1985, 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 £5,000.

(2) There shall be exempt from the levy, in respect of brick-manufacturing establishments, an employer in whose case the sum of the emoluments of all the persons employed at or from the brick-manufacturing establishments of the employer in the period of 12 months that commenced on 6th April 1985 was less than £100,000.

(3) For the purposes of sub-paragraphs (1) (a) and (2) above “emoluments” means all emoluments assessable to income tax under Schedule E of the Income and Corporation Taxes Act 1970 (other

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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.

(4) For the purposes of sub-paragraphs (1) and (2) 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-second 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.

APPENDIX

Category	Description	Amount Per Capita
1.	A person employed in a managerial, administrative, professional or technical capacity	£44
2.	A clerical or miscellaneous worker	NIL
3.	A craftsman (building)	£75
4.	A craftsman (mechanical engineering services)	£95
5.	A craftsman (electrical engineering services)	£85
6.	A skilled building and civil engineering worker	£25
7.	A labourer or general operative not entitled to extra payment for skill or responsibility under a Working Rule Agreement	£18
8.	A craftsman (miscellaneous)	£20
9.	A specialist building operative	£50
10.	A roof sheeter or felter	£55
11.	A scaffolder	£58
12.	A cavity wall insulation operative, a fencer or fence erector	£33
13.	A trainee in any of the categories 1-6 and 8-12 above	NIL