

---

STATUTORY INSTRUMENTS

---

**2005 No. 2045**

The Income Tax (Construction  
Industry Scheme) Regulations 2005

PART 6

CONDITIONS TO BE SATISFIED FOR GROSS PAYMENT

*Compliance test*

**Exceptions from compliance obligations**

**32.**—(1) The obligations and requests prescribed for the purposes of paragraphs 4(3), 8(2) and 12(2) of Schedule 11 to the Act are given in column 1 of Table 3.

(2) The circumstances prescribed in which the applicant or company is to be treated as satisfying the conditions in paragraphs 4(1), 8(1) or 12(1) of Schedule 11 to the Act as regards each of the prescribed obligations are given in column 2 of Table 3.

**Table 3**

<i>1. Prescribed obligations</i>	<i>2. Prescribed circumstances</i>
Obligation to submit monthly contractor return within the required period.	(1) Return is submitted not later than 28 days after the due date, and (2) the applicant or company— (a) has not otherwise failed to comply with this obligation within the previous 12 months, or (b) has failed to comply with this obligation on not more than two occasions within the previous 12 months.
Obligation to pay— (a) the amount liable to be deducted under section 61 of the Act from payments made during that tax period, or (b) tax liable to be deducted under the PAYE Regulations.	(1) Payment is made not later than 14 days after the due date, and (2) the applicant or company— (a) has not otherwise failed to comply with this obligation within the previous 12 months, or (b) has failed to comply with this obligation on not more than two occasions within the previous 12 months.

---

*Status: This is the original version (as it was originally made).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

---

<i>1. Prescribed obligations</i>	<i>2. Prescribed circumstances</i>
Obligation to pay income tax.	(1) Payment is made not later than 28 days after the due date, and (2) the applicant has not otherwise failed to comply with this obligation within the previous 12 months.
Obligation to submit a return under regulation 73, 74 and 85 of the PAYE Regulations (annual returns) within the required period.	Return is submitted after the due date.
Obligation to pay corporation tax for which the applicant or company is liable.	(1) Payment is made not later than 28 days after the due date, and (2) any shortfall in that payment has incurred an interest charge but no penalty.
Obligation to submit a self-assessment return within the required period.	Return is submitted after the due date.
Obligations and requests referred to in paragraphs 4(1), 8(1) and 12(1) of Schedule 11 to the Act.	The failure to comply occurred before the appointed day and was within section 562(10), 564(4) or 565(4) of ICTA (conditions to be satisfied: minor and technical failures).

### **Absence abroad – evidence of living outside the United Kingdom**

**33.**—(1) The evidence required to satisfy the Commissioners for Her Majesty’s Revenue and Customs for the purposes of paragraph 4(5)(a) of Schedule 11 to the Act that the applicant was not subject to any one or more of the obligations mentioned in paragraph 4(1) of that Schedule because he has been outside the United Kingdom for the whole or part of the qualifying period is prescribed in paragraphs (2) and (3).

(2) Subject to paragraph (3), if the applicant claims to have been employed or self-employed outside the United Kingdom during any part of the qualifying period, the evidence is any document from the Revenue Department or equivalent department of the country in which he claims to have been living which confirms his presence throughout that part of the qualifying period.

(3) If the applicant claims—

- (a) not to have been employed or self-employed while outside the United Kingdom during any part of the qualifying period, or
- (b) to have been employed or self-employed outside the United Kingdom during any part of the qualifying period but not to have been liable to tax in the country in which he claims to have been living during that part of the qualifying period,

the evidence is any document from the Social Security Department or equivalent department, or from the immigration authorities, or from any other Government department of the country in which he claims to have been living which confirms his presence throughout that part of the qualifying period.

### **Absence abroad – evidence of compliance with tax obligations**

**34.**—(1) The evidence required to satisfy the Commissioners for Her Majesty’s Revenue and Customs for the purposes of paragraph 4(5)(b) of Schedule 11 to the Act that the applicant has complied with any obligations imposed under the tax laws of any country in which he was living

during any part of the qualifying period which are comparable to the obligations mentioned in paragraph 4(1) of that Schedule is prescribed in paragraph (2).

(2) The evidence is such notice or documents issued by the Revenue Department or equivalent department of the country in which the applicant claims to have been living as confirms that the obligations have been complied with.

### **Evidence of unemployment**

**35.**—(1) The evidence required to satisfy the Commissioners for Her Majesty’s Revenue and Customs for the purposes of paragraph 4(5)(a) of Schedule 11 to the Act that the applicant was not subject to any one or more of the obligations mentioned in paragraph 4(1) of that Schedule because he was unemployed is prescribed in paragraphs (2) and (3).

(2) If the applicant claims to have been living within the United Kingdom during any period, the evidence is—

- (a) a statement from the benefit officer certifying the period during which the applicant was registered as unemployed, or
- (b) during any period during which the applicant was not registered as unemployed, such other evidence as satisfied the Commissioners for Her Majesty’s Revenue and Customs that he was unemployed during that period.

(3) If the applicant claims to have been living outside the United Kingdom during any period, the evidence is any document from the Social Security Department or equivalent department, or from the immigration authorities, or from any other Government Department of the country in which he claims to have been living, which confirms his presence there throughout that period.

(4) In paragraph (2), “benefit officer” means appropriate officer of the Department for Work and Pensions or, in Northern Ireland, the appropriate officer of the Department of Health and Social Services for Northern Ireland.

### **Evidence of full-time education**

**36.**—(1) The evidence required to satisfy the Commissioners for Her Majesty’s Revenue and Customs for the purposes of paragraph 4(5)(a) of Schedule 11 to the Act that the applicant was not subject to any one or more of the obligations mentioned in paragraph 4(1) of that Schedule because he was undergoing full-time education is prescribed in paragraphs (2) and (3).

(2) If the applicant claims to have been living within the United Kingdom, the evidence is a statement from the educational institution which the applicant attended, certifying the periods during which the applicant was undergoing full-time education at that institution.

(3) If the applicant claims to have been living outside the United Kingdom during any period, the evidence is a statement from the educational institution which the applicant attended, in the country in which the applicant claims to have been living, certifying the periods during which the applicant was undergoing full-time education at that institution.

### **Interpretation**

**37.** In this Part—

- “applicant” shall be construed in accordance with section 63 of and Schedule 11 to the Act;
- “qualifying period” has the meaning given in paragraph 14 of Schedule 11 to the Act.