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STATUTORY INSTRUMENTS

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**2005 No. 2045**

The Income Tax (Construction Industry Scheme) Regulations 2005

PART 7

ELECTRONIC COMMUNICATIONS

**Default surcharge**

**48.**—(1) A contractor in default in respect of any specified payment to whom—

- (a) a default notice under regulation 47, and
- (b) a surcharge notice under regulation 49,

have been issued, is liable to a surcharge.

(2) The surcharge is the sum of the surcharges, calculated in accordance with paragraph (3), in respect of each default relating to the tax year in which were made the contract payments to which the specified payment referred to in paragraph (1) relates.

(3) The surcharge in respect of each default is the specified percentage of (A - B).

(4) In paragraph (3)—

- (a) A is the total amount the contractor was liable to deduct under section 61 of the Act on account of tax from contract payments made in the tax year in which the contract payments to which the specified payment relates were made;
- (b) B is the total of the amounts deducted from A under—
  - (i) regulations 4, 5 and 6 of the Statutory Maternity Pay (Compensation of Employers) and Miscellaneous Amendment Regulations 1994<sup>(1)</sup>,
  - (ii) regulations 3 and 5 of the Statutory Paternity Pay and Statutory Adoption Pay (Administration) Regulations 2002<sup>(2)</sup>, and
  - (iii) regulation 56 (application by the Commissioners for Her Majesty's Revenue and Customs of sums deducted under section 61);
- (c) the specified percentage is determined by reference to the number of the default during a surcharge period in accordance with Table 4.

**Table 4**

Specified percentage for each default in a surcharge period

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<i>1</i> Default number (within a surcharge period)	<i>2</i> Specified percentage
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1 <sup>st</sup>	0%
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(1) S.I.1994/1882, amended by S.I. 2003/672.

(2) S.I. 2002/2820.

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**Status:** This is the original version (as it was originally made).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

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<i>1 Default number (within a surcharge period)</i>	<i>2 Specified percentage</i>
2 <sup>nd</sup>	0%
3 <sup>rd</sup>	0.17%
4 <sup>th</sup>	0.17%
5 <sup>th</sup>	0.17%
6 <sup>th</sup>	0.33%
7 <sup>th</sup>	0.33%
8 <sup>th</sup>	0.58%
9 <sup>th</sup>	0.58%
10 <sup>th</sup>	0.58%
11 <sup>th</sup>	0.83%
12 <sup>th</sup>	

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- (5) A surcharge period is a period which—
- (a) begins on the day following the date by which payment is required in accordance with paragraph 7 for the first specified payment in respect of which the contractor is in default, and
  - (b) ends at the end of a tax year in relation to which the contractor has not been in default in respect of any specified payment.
- (6) A surcharge payable under this paragraph is payable 30 days after the issue of the surcharge notice.
- (7) Section 102 of TMA(3) (mitigation of penalties) applies to a surcharge payable under this paragraph as if it were a penalty.

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(3) Section 102 was amended by section 168(4) of the Finance Act 1989 (c. 26).