

CHAPTER 2 Payments to subcontractors in certain industries

Interpretation). FA70 s17(1) and (13); FA72 Sch1 PtIII par4; FA76 s21; FA92 s28(a); FA95 s18(1)(a); FA96 s41(a); FA97 s13(1)(a), s146(1) and Sch9 Ptl par5(3) 530.—(1) In this Chapter—

“certificate of authorisation” means a certificate issued under section 531 (11);

“certificates of deduction” has the meaning assigned to it by section 531 (6)(f);

“construction operations” means operations of any of the following descriptions—

(a) the construction, alteration, repair, extension, demolition or dismantling of buildings or structures,

(b) the construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including walls, roadworks, power lines, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage,

(c) the installation in any building or structure of systems of heating, lighting, air-conditioning, soundproofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection,

(d) the external cleaning of buildings (other than cleaning of any part of a building in the course of normal maintenance) or the internal cleaning of buildings and structures, in so far as carried out in the course of their construction, alteration, extension, repair or restoration,

(e) operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described in paragraphs (a) to (d), including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works,

(f) operations which form an integral part of, or are preparatory to, or are for rendering complete, the drilling for or extraction of minerals, oil, natural gas or the exploration for, or exploitation of, natural resources,

(g) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the construction operations referred to in paragraphs (a) to (f);

“the contractor” has the meaning assigned to it by the definition of “relevant contract”;

“director” means—

(a) in relation to a body corporate the affairs of which are managed by a board of directors or similar

body, a member of that board or body,

(b) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person,

(c) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate,

and includes any person who is or has been a director;

“employee”, in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee;

“forestry operations” means operations of any of the following descriptions—

(a) the thinning, lopping or felling of trees in woods, forests or other plantations,

(b) with effect from the 6th day of October, 1997, the planting of trees in woods, forests or other plantations,

(c) with effect from the 6th day of October, 1997, the maintenance of woods, forests and plantations and the preparation of land, including woods or forests which have been harvested, for planting,

(d) the haulage or removal of thinned, lopped or felled trees,

(e) the processing (including cutting or preserving) of wood from thinned, lopped or felled trees in sawmills or other like premises,

(f) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the operations referred to in paragraphs (a) to (e);

“meat processing operations” means operations of any of the following descriptions—

(a) the slaughter of cattle, sheep or pigs,

(b) the division (including cutting or boning), sorting, packaging (including vacuum packaging) or branding of, or the application of any other similar process to, the carcasses or any part of the carcasses of slaughtered cattle, sheep or pigs,

(c) the application of methods of preservation (including cold storage) to the carcasses or any part of the carcasses of slaughtered cattle, sheep or pigs,

(d) the loading or unloading of the carcasses or any part of the carcasses of slaughtered cattle, sheep or pigs at any establishment where any of the operations referred to in paragraphs (a) to (c) are carried on;

“the principal” has the meaning assigned to it by the definition of “relevant contract”;

“proprietary director”, means a director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company;

“proprietary employee” means an employee who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than 15 per cent of the ordinary share capital of the company;

“qualifying period” means the period of 3 years, or such shorter period as the inspector may allow, ending on the 5th day of April in the year preceding the year of assessment which is the first year of assessment of the period in respect of which a certificate of authorisation is sought;

“relevant contract” means a contract (not being a contract of employment) whereby a person (in this Chapter referred to as “the contractor”) is liable to another person (in this Chapter referred to as “the principal”)—

(a) to carry out relevant operations,

(b) to be answerable for the carrying out of such operations by others, whether under a contract with the contractor or under other arrangements made or to be made by the contractor, or

(c) to furnish the contractor's own labour or the labour of others in the carrying out of such operations,

but, as respects relevant contracts entered into on or after the 15th day of May, 1996, a separate relevant contract shall be deemed to exist between the principal and each individual member of a gang or group of persons, including a partnership in respect of which the principal has not received a relevant payments card, where relevant operations are performed collectively by the gang or group, notwithstanding that any payment or part of a payment in respect of such relevant operations is made by the principal to one or more of the gang or group or to some other person;

“relevant operations” means construction operations, forestry operations or meat processing operations, as the case may be;

“relevant payments card” has the meaning assigned to it by section 531 (12);

“relevant tax deduction card” has the meaning assigned to it by section 531 (6)(c)(ii);

“subcontractor” has the meaning assigned to it by section 531 (1).

(2) In relation to a case where a subcontractor is chargeable to corporation tax, unless the context otherwise requires, references in this Chapter to tax shall include references to corporation tax and references to a year of assessment shall include references to an accounting period.

(3) For the purposes of the definition of “proprietary director” and “proprietary employee”, ordinary share capital which is owned or controlled as referred to in those definitions by a person, being a spouse or a minor child of a director or employee, or by a trustee of a trust for the benefit of a person or persons, being or including any such person or such director or employee, shall be deemed to be owned or controlled by such director or employee and not by any other person.