



# Finance Act 2004

## 2004 CHAPTER 12

### PART 3

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 3

#### CONSTRUCTION INDUSTRY SCHEME

#### *Verification, returns <sup>F1</sup>, security]etc and penalties*

#### Textual Amendments

**F1** Word in [s. 69 cross-heading](#) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 82\(1\)\(a\)](#)

#### **69 Verification etc of registration status of sub-contractors**

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under contracts relating to construction operations, except in prescribed circumstances, to verify with the Board whether a person to whom they are proposing to make—
  - (a) a contract payment, or
  - (b) a payment which would be a contract payment but for section 60(4),is registered for gross payment or for payment under deduction.
- (2) The provision that may be made by regulations under subsection (1) includes provision—
  - (a) for preventing a person from verifying unless such conditions as may be prescribed have been satisfied;
  - (b) as to the period for which the verification remains valid.

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- (3) The Board of Inland Revenue may make regulations requiring the Board to notify persons of a prescribed description who make payments under contracts relating to construction operations that—
- (a) a person registered for gross payment has become registered for payment under deduction or has ceased to be registered under section 63, or
  - (b) a person registered for payment under deduction has become registered for gross payment or has ceased to be registered under section 63.
- (4) The provision that may be made by regulations under subsection (1) or (3) includes provision for a person to be entitled to assume, except in prescribed circumstances, that—
- (a) a person verified or notified as being registered for gross payment, or
  - (b) a person verified or notified as being registered for payment under deduction, has not subsequently ceased to be so registered.
- (5) In this section “prescribed” means prescribed by regulations under this section.

## **70 Periodic returns by contractors etc**

- (1) The Board of Inland Revenue may make regulations requiring persons who make payments under construction contracts—
- (a) to make to the Board, at such times and in respect of such periods as may be prescribed, returns relating to such payments;
  - (b) to keep such records as may be prescribed relating to such payments;
  - (c) to provide such information as may be prescribed, at such times as may be prescribed, to persons to whom such payments are made or to such of those persons as are of a prescribed description.
- (2) The provision that may be made by regulations under subsection (1)(a) includes provision requiring, except in such circumstances as may be prescribed,—
- (a) the person making a return to declare in the return that none of the contracts to which the return relates is a contract of employment;
  - (b) the person making a return to declare in the return that, in the case of each person to whom a payment to which the return relates is made, he has complied with the requirements of any regulations made under section 69(1) (verification of registration status);
  - (c) returns to contain such other information and to be in such form as may be prescribed;
  - (d) a return to be made where no payments have been made in the period to which the return relates.
- (3) The Board of Inland Revenue may make regulations with respect to—
- (a) the production, copying and removal of, and the making of extracts from, any records kept by virtue of any such requirement as is referred to in subsection (1)(b), and
  - (b) rights of access to, or copies of, any such records which are removed.
- (4) Regulations under this section may make provision—
- (a) for or in connection with enabling a person who makes payments under construction contracts to appoint another person (a “scheme representative”)

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to act on his behalf in connection with any requirements imposed on him by regulations under this section, and

(b) as to the rights, obligations or liabilities of scheme representatives.

(5) In this section “prescribed” means prescribed by regulations under this section.

## [<sup>F2</sup>70A Security for payments to HMRC

(1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.

(2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.

(3) Regulations under this section must provide for a right of appeal against—

(a) decisions to require security to be given;

(b) decisions as to the amount, terms or duration of any security required.

(4) A person commits an offence if—

(a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and

(b) the failure continues for such period as is prescribed.

(5) A person who commits an offence under subsection (4) is liable on summary conviction—

(a) in England and Wales, to a fine;

(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(6) In this section—

“prescribed” means prescribed in regulations under this section;

“security” includes further security.]

### Textual Amendments

**F2** S. 70A inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), s. 82(1)(b)

## 71 Collection and recovery of sums to be deducted

(1) The Board of Inland Revenue must make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under section 61.

(2) The regulations may include any matters with respect to which PAYE regulations may be made.

(3) Interest required to be paid by the regulations—

(a) is to be paid without any deduction of income tax, <sup>F3</sup>...

<sup>F3</sup>(b) .....

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#### Textual Amendments

- F3** S. 71(3)(b) and preceding word repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 570](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

#### [<sup>F4</sup>72 Penalties

- (1) This section applies in a case within subsection (2), (3) or (4).
- (2) A case is within this subsection if a person (“A”)—
  - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
  - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,
 for the purpose of becoming registered for gross payment or for payment under deduction.
- (3) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so —
  - (a) makes a statement, or furnishes a document, which A knows to be false in a material particular, or
  - (b) recklessly makes a statement, or furnishes a document, which is false in a material particular,
 for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (4) A case is within this subsection if a person (“A”) who exercises influence or control over another person (“B”) or is in a position to do so—
  - (a) encourages B to make a statement, or furnish a document, which A knows to be false in a material particular, or
  - (b) encourages B to make a statement or furnish a document—
    - (i) which is false in a material particular, and
    - (ii) where A is reckless as to whether the statement or document is false in a material particular,
 for the purpose of enabling or facilitating B to become registered for gross payment or for payment under deduction.
- (5) In a case where this section applies, A is liable to a penalty not exceeding £3,000.]

#### Textual Amendments

- F4** S. 72 substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 6 para. 7](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)