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## SCHEDULES

### SCHEDULE 1

Section 1(4).

#### SUPPLEMENTARY PROVISIONS RELATING TO CONTRIBUTIONS OF CLASSES 1, 1A, [F1 1B,] 2 AND 3

##### Textual Amendments

- F1** Word in Sch. 1 heading inserted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 77(1); S.I. 1998/2209, art. 2(c), Sch. Pt. 3

##### *Class 1 contributions where earner employed in more than one employment*

- 1 (1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—
- (a) all earnings paid to him or for his benefit in that week in respect of one or more employed earner's employments under the same employer shall, except as may be provided by regulations, be aggregated and treated as a single payment of earnings in respect of one such employment; and
  - (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employments shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment;
- and regulations may provide that the provisions of this sub-paragraph shall have effect in cases prescribed by the regulations as if for any reference to a week there were substituted a reference to a period prescribed by the regulations.
- [F2(2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above, then, except as may be provided by regulations—
- (a) if the aggregated earnings exceed the current [F3 primary threshold], the amount of the primary Class 1 contribution in respect of the aggregated earnings [F4 attributable to section 8(1)(a) above] shall be determined in accordance with sub-paragraph (3) below; and
  - (b) if the aggregated earnings exceed the current [F5 secondary threshold], the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.]
- [F6(3) The amount of the primary Class 1 contribution [F7 attributable to section 8(1) (a) above] shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—
- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the

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Pension Schemes Act 1993 (contributions to personal pension schemes), the amount obtained by applying the [F8main primary percentage] that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings so attributable as [F9exceeds the current [F3primary threshold] and] does not exceed the current upper earnings limit (referred to in this paragraph as “the APPS earnings”),

- (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the [F8main primary percentage] that would apply if all the aggregated earnings were attributable to COMPS service—
  - (i) to such part of the aggregated earnings attributable to COMPS service as [F9exceeds the current [F3primary threshold] and] does not exceed [F10the upper accrual point], or
  - (ii) if paragraph (a) applies, to such part of the earnings attributable to COMPS service as, when added to the APPS earnings, [F9exceeds the current [F3primary threshold] and] does not exceed [F10the upper accrual point],

[F11(ba) if paragraph (b) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COMPS service as, when added to the APPS earnings (if any), exceeds the upper accrual point and does not exceed the current upper earnings limit.]

- (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the [F8main primary percentage] that would apply if all the aggregated earnings were attributable to COSRS service—
  - (i) to such part of the aggregated earnings attributable to COSRS service as [F9exceeds the current [F3primary threshold] and] does not exceed [F12the upper accrual point], or
  - (ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), [F9exceeds the current [F3primary threshold] and] does not exceed [F12the upper accrual point],

[F13(ca) if paragraph (c) applies, the amount obtained by applying the main primary percentage referred to in paragraph (d) to such part of the aggregated earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), exceeds the upper accrual point and does not exceed the current upper earnings limit.]

- (d) the amount obtained by applying the [F8main primary percentage] that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, [F9exceeds the current [F3primary threshold] and] does not exceed the current upper earnings limit].

F14(4) .....

F14(5) .....

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- [<sup>F15</sup>(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—
- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the Pension Schemes Act 1993, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to [<sup>F16</sup>such part of the APPS earnings as exceeds the [<sup>F5</sup>secondary threshold]],
  - (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service to [<sup>F17</sup>such part of the aggregated earnings attributable to such service as exceeds the [<sup>F5</sup>secondary threshold]],
  - (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to [<sup>F17</sup>such part of the aggregated earnings attributable to such service as exceeds the [<sup>F5</sup>secondary threshold]],
  - (d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to [<sup>F18</sup>such part of the remainder of the aggregated earnings as exceeds the [<sup>F5</sup>secondary threshold]].]
- (7) Where any single payment of earnings is made in respect of two or more employed earner's employments under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.
- (8) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary contributors concerned.
- [<sup>F19</sup>(8A) Regulations under any provision of this paragraph shall be made by the Inland Revenue.]
- [<sup>F20</sup>(9) In this paragraph—
- “COMPS service” means service in employment in respect of which minimum payments are made to a money purchase contracted-out scheme,
  - “COSRS service” means service in employment which qualifies the earner for a pension provided by a salary related contracted-out scheme]
- [<sup>F21</sup>(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—
- (a) the primary or the secondary threshold, or
  - (b) the upper earnings limit,
- shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.]
- [<sup>F22</sup>(11) In relation to such earners, any reference in this paragraph to the upper accrual point is to be read as a reference to the prescribed equivalent (see section 122(6A)).]

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### Textual Amendments

- F2** Sch. 1 para. 1(2) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(2)**; S.I. 1999/418, art. 2(2)(3)(a)
- F3** Words in Sch. 1 para. 1 substituted (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(b), **Sch. 12 para. 78(3)**; S.I. 1999/3420, art. 4(d)
- F4** Words in Sch. 1 para. 1(2)(a) inserted (with effect in relation to the tax year 2003-04 and subsequent tax years) by National Insurance Contributions Act 2002 (c. 19), s. 8(2), **Sch. 1 para. 13(2)(a)**
- F5** Words in Sch. 1 para. 1 substituted (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(b), **Sch. 12 para. 78(2)**; S.I. 1999/3420, art. 4(d)
- F6** Sch. 1 para. 1(3) substituted (6.4.1996) by Pensions Act 1995 (c. 26), **ss. 148(2)**, 180(1) (with s. 148(5)); S.I. 1996/778, art. 2(4), Sch. Pt. 4
- F7** Words in Sch. 1 para. 1(3) inserted (with effect in relation to the tax year 2003-04 and subsequent tax years) by National Insurance Contributions Act 2002 (c. 19), s. 8(2), **Sch. 1 para. 13(2)(b)(i)**
- F8** Words in Sch. 1 para. 1(3) substituted (with effect in relation to the tax year 2003-04 and subsequent tax years) by National Insurance Contributions Act 2002 (c. 19), s. 8(2), **Sch. 1 para. 13(2)(b)(ii)**
- F9** Words in Sch. 1 para. 1(3) inserted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(3)**; S.I. 1999/418, art. 2(2)(3)(a)
- F10** Words in Sch. 1 para. 1(3)(b) substituted (21.9.2008) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 6(2)(a)**
- F11** Sch. 1 para. 1(3)(ba) inserted (21.9.2008) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 6(2)(b)**
- F12** Words in Sch. 1 para. 1(3)(c) substituted (with effect in relation to 2009-10 and subsequent tax years) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 6(2)(c)** (with Sch. 1 para. 6(5))
- F13** Sch. 1 para. 1(3)(ca) inserted (with effect in relation to 2009-10 and subsequent tax years) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 6(2)(d)** (with Sch. 1 para. 6(5))
- F14** Sch. 1 para. 1(4)(5) repealed (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(b)(c), Sch. 12 para. 78(4), **Sch. 13 Pt. VI**; S.I. 1999/3420, art. 4(d)(e)
- F15** Sch. 1 para. 1(6) substituted (6.4.1996) by Pensions Act 1995 (c. 26), **ss. 148(3)**, 180(1) (with s. 148(5)); S.I. 1996/778, art. 2(4), Sch. Pt. 4
- F16** Words in Sch. 1 para. 1(6)(a) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(4)(a)**; S.I. 1999/418, art. 2(2)(3)(a)
- F17** Words in Sch. 1 para. 1(6)(b)(c) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(4)(b)**; S.I. 1999/418, art. 2(2)(3)(a)
- F18** Words in Sch. 1 para. 1(6)(d) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(4)(c)**; S.I. 1999/418, art. 2(2)(3)(a)
- F19** Sch. 1 para. 1(8A) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 3 para. 31**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F20** Sch. 1 para. 1(9) added (6.4.1996) by Pensions Act 1995 (c. 26), **ss. 148(4)**, 180(1) (with s. 148(5)); S.I. 1996/778, art. 2(4), Sch. Pt. 4
- F21** Sch. 1 para. 1(10) added (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(b), **Sch. 12 para. 78(5)**; S.I. 1999/3420, art. 4(d)
- F22** Sch. 1 para. 1(11) inserted (with effect in relation to 2009-10 and subsequent tax years) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 6(4)** (with Sch. 1 para. 6(5))

### *Earnings not paid at normal intervals*

- 2 Regulations [<sup>F23</sup>made by the Inland Revenue] may, for the purposes of Class 1 contributions, make provision as to the intervals at which payments of earnings are to be treated as made.

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### Textual Amendments

**F23** Words in Sch. 1 para. 2 inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 32**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

### *Method of paying Class 1 contributions*

3 (1) Where earnings are paid to an employed earner and in respect of that payment liability arises for primary and secondary Class 1 contributions, the secondary contributor shall (except in prescribed circumstances), as well as being liable for [<sup>F24</sup>any secondary contribution of his own], be liable in the first instance to pay also the earner's primary contribution [<sup>F25</sup>or a prescribed part of the earner's primary contribution], on behalf of and to the exclusion of the earner; and for the purposes of this Act and the Administration Act contributions paid by the secondary contributor on behalf of the earner shall be taken to be contributions paid by the earner.

<sup>F26</sup>(2) .....

(3) A secondary contributor shall be entitled, subject to and in accordance with regulations, to recover from an earner the amount of any primary Class 1 contribution paid or to be paid by him on behalf of the earner; [<sup>F27</sup>and, subject to [<sup>F28</sup>sub-paragraphs (3A) to (5)] below but notwithstanding any other provision in any enactment], regulations under this sub-paragraph shall provide for recovery to be made by deduction from the earner's earnings, and for it not to be made in any other way.

[<sup>F29</sup>(3A) Sub-paragraph (3B) applies where a person ("the employee") who is employed by a particular employer ("the employer") receives earnings in a form other than money ("non-monetary earnings") from the employer in a tax year.

(3B) If and to the extent that regulations so provide, the employer may recover from the employee, in the prescribed manner, any primary Class 1 contributions paid or to be paid by him on the employee's behalf in respect of those earnings.]

[<sup>F30</sup>(4) Sub-paragraph (5) below applies in a case where—

- (a) a person ("the employee") ceases in a particular tax year ("the cessation year") to be employed by a particular employer ("the employer"); and
- (b) the employee receives from the employer in the cessation year, after the cessation of the employment, [<sup>F31</sup>or in the next tax year non-monetary earnings.]

(5) If and to the extent that regulations so provide, the employer may recover from the employee in such manner as may be prescribed any primary Class 1 contributions paid or to be paid by him on the employee's behalf in respect of—

- (a) the non-monetary earnings mentioned in sub-paragraph (4) above; <sup>F32</sup>...
- <sup>F32</sup>(b) ..... ]

[<sup>F33</sup>(6) Regulations under any provision of this paragraph shall be made by the Inland Revenue.]

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### Textual Amendments

- F24** Words in Sch. 1 para. 3(1) substituted (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 77\(5\)](#); S.I. 1999/418, art. 2(2)(3)(a)
- F25** Words in Sch. 1 para. 3(1) inserted (with effect in relation to the tax year 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\)](#), s. 8(2), [Sch. 1 para. 13\(3\)](#)
- F26** Sch. 1 para. 3(2) repealed (with effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 77(1), 86, [Sch. 9 Pt. VIII](#)
- F27** Words in Sch. 1 para. 3(3) substituted (8.9.1998) by [Social Security Act 1998 \(c. 14\)](#), [ss. 55\(a\)](#), 87(2); S.I. 1998/2209, art. 2(a), Sch. Pt. 1
- F28** Words in Sch. 1 para. 3(3) substituted (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), [ss. 1\(2\)](#), 13; S.I. 2004/1943, art. 2(a)
- F29** Sch. 1 para. 3(3A)(3B) inserted (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), [ss. 1\(3\)](#), 13; S.I. 2004/1943, art. 2(a)
- F30** Sch. 1 para. 3(4)(5) inserted (8.9.1998) by [Social Security Act 1998 \(c. 14\)](#), [ss. 55\(b\)](#), 87(2); S.I. 1998/2209, art. 2(a), Sch. Pt. 1
- F31** Words in Sch. 1 para. 3(4)(b) substituted (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), [ss. 1\(4\)](#), 13; S.I. 2004/1943, art. 2(a)
- F32** Words in Sch. 1 para. 3(5) repealed (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), ss. 1(5), 13, [Sch. 2](#); S.I. 2004/1943, arts. 2(a), 6(a)(i)
- F33** Sch. 1 para. 3(6) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 3 para. 33](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

### *[<sup>F34</sup>Prohibition on recovery of employer's contributions*

### Textual Amendments

- F34** Sch. 1 paras. 3A, 3B and cross-headings inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 77\(2\)](#), 86

- 3A (1) Subject to sub-paragraph (2) below, a person who is or has been liable to pay any secondary Class 1 or any Class 1A or Class 1B contributions shall not—
- (a) make, from earnings paid by him, any deduction in respect of any such contributions for which he or any other person is or has been liable;
  - (b) otherwise recover any such contributions (directly or indirectly) from any person who is or has been a relevant earner; or
  - (c) enter into any agreement with any person for the making of any such deduction or otherwise for the purpose of so recovering any such contributions.
- (2) Sub-paragraph (1) above does not apply to the extent that an agreement between—
- (a) a secondary contributor, and
  - (b) any person (“the earner”) in relation to whom the secondary contributor is, was or will be such a contributor in respect of the contributions to which the agreement relates,
- allows the secondary contributor to recover (whether by deduction or otherwise) the whole or any part of any secondary Class 1 contribution payable in respect of [<sup>F35</sup>relevant employment income of that earner.]

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- [ But an agreement in respect of relevant employment income is to be disregarded for<sup>F36</sup>(2A) the purposes of sub-paragraph (2) to the extent that it relates to<sup>F37</sup>—
- (a)] relevant employment income which is employment income of the earner by virtue of Chapter 3A of Part 7 of ITEPA 2003 (employment income: securities with artificially depressed market value)<sup>F38</sup>, or
  - (b) any contribution, or any part of any contribution, liability to which arises as a result of regulations being given retrospective effect by virtue of section 4B(2) (earnings: power to make retrospective provision in consequence of retrospective tax legislation)].
- (2B) For the purposes of sub-paragraphs (2) and (2A) “relevant employment income”, in relation to the earner, means—
- (a) an amount that counts as employment income of the earner under section 426 of ITEPA 2003 (restricted securities: charge on certain post-acquisition events),
  - (b) an amount that counts as employment income of the earner under section 438 of that Act (convertible securities: charge on certain post-acquisition events), or
  - (c) a gain that is treated as remuneration derived from the earner’s employment by virtue of section 4(4)(a) above.]
- (3) Sub-paragraph (2) above does not authorise any recovery (whether by deduction or otherwise)—
- (a) in pursuance of any agreement entered into before 19th May 2000; or
  - (b) in respect of any liability to a contribution arising before the day of the passing of the Child Support, Pensions and Social Security Act 2000.
- (4) In this paragraph—
- “agreement” includes any arrangement or understanding (whether or not legally enforceable); and
  - “relevant earner”, in relation to a person who is or has been liable to pay any contributions, means an earner in respect of whom he is or has been so liable.]

#### Textual Amendments

- F35** Words in Sch. 1 para. 3A(2) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), ss. 3\(2\)\(a\), 13; S.I. 2004/1943, art. 2\(c\)](#)
- F36** Sch. 1 para. 3A(2A)(2B) inserted (with effect in accordance with s. 3(4)(5) of the amending Act) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), ss. 3\(2\)\(b\), 13; S.I. 2004/1943, art. 2\(c\)](#)
- F37** Words in Sch. 1 para. 3A(2A) inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\), ss. 5\(2\)\(a\), 9](#)
- F38** Sch. 1 para. 3A(2A)(b) and preceding word inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\), ss. 5\(2\)\(b\), 9](#)

<sup>F34</sup>*Transfer of liability to be borne by earner*

- 3B (1) This paragraph applies where—

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- (a) an election is jointly made by—
  - (i) a secondary contributor, and
  - (ii) a person (“the earner”) in relation to whom the secondary contributor is or will be such a contributor in respect of contributions on [<sup>F39</sup>relevant employment income of the earner], for the whole or a part of any liability of the secondary contributor to contributions on any [<sup>F40</sup>such income] to be transferred to the earner; and
- (b) the election is one in respect of which the Inland Revenue have, before it was made, given by notice to the secondary contributor their approval to both—
  - (i) the form of the election; and
  - (ii) the arrangements made in relation to the proposed election for securing that the liability transferred by the election will be met.

[ In this paragraph “relevant employment income”, in relation to the earner, means—

- <sup>F41</sup>(1A) (a) an amount that counts as employment income of the earner under section 426 of ITEPA 2003 (restricted securities: charge on certain post-acquisition events),
- (b) an amount that counts as employment income of the earner under section 438 of that Act (convertible securities: charge on certain post-acquisition events), or
- (c) a gain that is treated as remuneration derived from the earner’s employment by virtue of section 4(4)(a) above,

and references to contributions on relevant employment income are references to any secondary Class 1 contributions payable in respect of that income.]

- (2) Any liability which—
  - (a) arises while the election is in force, and
  - (b) is a liability to pay the contributions on [<sup>F42</sup>relevant employment income of the earner, or the part of it], to which the election relates,
 shall be treated for the purposes of this Act, the Administration Act and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 as a liability falling on the earner, instead of on the secondary contributor.
- (3) Subject to [<sup>F43</sup>sub-paragraphs (7)(b) and (7B)] below, an election made for the purposes of sub-paragraph (1) above shall continue in force from the time when it is made until whichever of the following first occurs, namely—
  - (a) it ceases to have effect in accordance with its terms;
  - (b) it is revoked jointly by both parties to the election;
  - (c) notice is given to the earner by the secondary contributor terminating the effect of the election.
- (4) An approval given to the secondary contributor for the purposes of sub-paragraph (1) (b) above may be given either—
  - (a) for an election to be made by the secondary contributor and a particular person; or
  - (b) for all elections to be made, or to be made in particular circumstances, by the secondary contributor and particular persons or by the secondary contributor and persons of a particular description.



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- (5) The grounds on which the Inland Revenue shall be entitled to refuse an approval for the purposes of sub-paragraph (1)(b) above shall include each of the following—
- (a) that it appears to the Inland Revenue that adequate arrangements have not been made for securing that the liabilities transferred by the proposed election or elections will be met by the person or persons to whom they would be so transferred; and
  - (b) that it appears to the Inland Revenue that they do not have sufficient information to determine whether or not grounds falling within paragraph (a) above exist.
- (6) If, at any time after they have given an approval for the purposes of sub-paragraph (1)(b) above, it appears to the Inland Revenue—
- (a) that the arrangements that were made or are in force for securing that liabilities transferred by elections to which the approval relates are met are proving inadequate or unsatisfactory in any respect, or
  - (b) that any election to which the approval relates has resulted, or is likely to result, in the avoidance or non-payment of the whole or any part of any secondary Class 1 contributions,
- the Inland Revenue may withdraw the approval by notice to the secondary contributor.
- (7) The withdrawal by the Inland Revenue of any approval given for the purposes of sub-paragraph (1)(b) above—
- (a) may be either general or confined to a particular election or to particular elections; and
  - (b) shall have the effect that the election to which the withdrawal relates has no effect on contributions [<sup>F44</sup>on relevant employment income if—
    - (i) that income is within sub-paragraph (1A)(a) or (b) and the securities, or interest in securities, to which it relates were or was acquired after the withdrawal date, or
    - (ii) that income is within sub-paragraph (1A)(c) and the right to acquire securities to which it relates was acquired after that date.]
- [ In sub-paragraph (7)(b) “the withdrawal date” means—
- <sup>F45</sup>(7A) (a) the date on which notice of the withdrawal of the approval is given, or
  - (b) such later date as the Inland Revenue may specify in that notice.
- (7B) An election is void for the purposes of sub-paragraph (1) to the extent that it relates to [<sup>F46</sup>—
- (a)] relevant employment income which is employment income of the earner by virtue of Chapter 3A of Part 7 of ITEPA 2003 (employment income: securities with artificially depressed market value)[<sup>F47</sup>, or
  - (b) any liability, or any part of any liability, to a contribution arising as a result of regulations being given retrospective effect by virtue of section 4B(2) (earnings: power to make retrospective provision in consequence of retrospective tax legislation)].]
- (8) Where the Inland Revenue have refused or withdrawn their approval for the purposes of sub-paragraph (1)(b) above, the person who applied for it or, as the case may be, to whom it was given may appeal <sup>F48</sup>... against the Inland Revenue’s decision.

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- (9) On an appeal under sub-paragraph (8) above [<sup>F49</sup>that is notified to the tribunal, the tribunal may]—
  - (a) dismiss the appeal;
  - (b) remit the decision appealed against to the Inland Revenue with a direction to make such decision as the [<sup>F50</sup>tribunal thinks] fit; or
  - (c) in the case of a decision to withdraw an approval, quash that decision and direct that that decision is to be treated as never having been made.

[<sup>F51</sup>(10) Subject to sub-paragraph (12) below, an election under sub-paragraph (1) above shall not apply to any contributions in respect of income which, before the election was made, counted as employment income for a tax year by virtue of Part 7 of ITEPA 2003.]

- (11) Regulations made by the Inland Revenue may make provision with respect to the making of elections for the purposes of this paragraph and the giving of approvals for the purposes of sub-paragraph (1)(b) above; and any such regulations may, in particular—
  - (a) prescribe the matters that must be contained in such an election;
  - (b) provide for the manner in which such an election is to be capable of being made and of being confined to particular liabilities or the part of particular liabilities; and
  - (c) provide for the making of applications for such approvals and for the manner in which those applications are to be dealt with.

- (12) Where—
  - (a) an election is made under this paragraph before the end of the period of three months beginning with the date of the passing of the Child Support, Pensions and Social Security Act 2000, and
  - (b) that election is expressed to relate to liabilities for contributions arising on or after 19th May 2000 and before the making of the election,
 this paragraph shall have effect in relation to those liabilities as if sub-paragraph (2) above provided for them to be deemed to have fallen on the earner (instead of on the secondary contributor); and the secondary contributor shall accordingly be entitled to reimbursement from the earner for any payment made by that contributor in or towards the discharge of any of those liabilities.

<sup>F52</sup>(13) .....

[<sup>F53</sup>(14) In this paragraph “tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal.]]

<b>Textual Amendments</b>	
<b>F39</b>	Words in Sch. 1 para. 3B(1)(a) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by <a href="#">National Insurance Contributions and Statutory Payments Act 2004 (c. 3), ss. 3(3)(a)(i), 13; S.I. 2004/1943, art. 2(c)</a>
<b>F40</b>	Words in Sch. 1 para. 3B(1)(a) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by <a href="#">National Insurance Contributions and Statutory Payments Act 2004 (c. 3), ss. 3(3)(a)(ii), 13; S.I. 2004/1943, art. 2(c)</a>
<b>F41</b>	Sch. 1 para. 3B(1A) inserted (with effect in accordance with s. 3(4)(5) of the amending Act) by <a href="#">National Insurance Contributions and Statutory Payments Act 2004 (c. 3), ss. 3(3)(b), 13; S.I. 2004/1943, art. 2(c)</a>

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- F42** Words in Sch. 1 para. 3B(2)(b) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(c)**, 13; S.I. 2004/1943, art. 2(c)
- F43** Words in Sch. 1 para. 3B(3) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(d)**, 13; S.I. 2004/1943, art. 2(c)
- F44** Words in Sch. 1 para. 3B(7)(b) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(e)**, 13; S.I. 2004/1943, art. 2(c)
- F45** Sch. 1 para. 3B(7A)(7B) inserted (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(f)**, 13; S.I. 2004/1943, art. 2(c)
- F46** Words in Sch. 1 para. 3B(7B) inserted (30.3.2006) by National Insurance Contributions Act 2006 (c. 10), **ss. 5(3)(a)**, 9
- F47** Sch. 1 para. 3B(7B)(b) and preceding word inserted (30.3.2006) by National Insurance Contributions Act 2006 (c. 10), **ss. 5(3)(b)**, 9
- F48** Words in Sch. 1 para. 3B(8) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 169(3)**
- F49** Words in Sch. 1 para. 3B(9) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 169(4)(a)**
- F50** Words in Sch. 1 para. 3B(9)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 169(4)(b)**
- F51** Sch. 1 para. 3B(10) substituted (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(g)**, 13; S.I. 2004/1943, art. 2(c)
- F52** Sch. 1 para. 3B(13) repealed (with effect in accordance with s. 3(4)(5) of the amending Act) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 3(3)(h)**, 13, **Sch. 2**; S.I. 2004/1943, arts. 2(c), 6(a)(i)
- F53** Sch. 1 para. 3B(14) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 169(5)**

#### *General provisions as to Class 1 contributions*

- 4 Regulations [<sup>F54</sup>made by the Inland Revenue] may, in relation to Class 1 contributions, make provision—
- (a) for calculating the amounts payable according to a scale prepared from time to time by the [<sup>F55</sup>Inland Revenue] or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
  - (b) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age or retirement, shall be determined as at the beginning of the week or as at the end of it;
  - (c) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid; and
  - (d) without prejudice to sub-paragraph (c) above, for enabling the [<sup>F56</sup>Inland Revenue], where [<sup>F57</sup>they are] satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of Class 1 contributions is avoided or reduced by means of irregular or unequal payments, to give directions for securing that such contributions are payable as if that practice were not followed.

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#### Textual Amendments

- F54** Words in Sch. 1 para. 4 inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 34**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F55** Words in Sch. 1 para. 4(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 16(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F56** Words in Sch. 1 para. 4(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 16(b)(i)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F57** Words in Sch. 1 para. 4(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 16(b)(ii)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### *[<sup>F58</sup> Class 1A contributions*

#### Textual Amendments

- F58** Sch. 1 para. 5 and cross-heading substituted (8.9.1998) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(6)**; S.I. 1998/2209, art. 2(a), Sch. Pt. 1

- 5 Regulations [<sup>F59</sup>made by the Inland Revenue] may—
- (a) make provision for calculating the amount of Class 1A contributions so as to avoid fractional amounts;
  - (b) modify section 10 above in relation to cases where [<sup>F60</sup>something is provided or made available] by reason of two or more employed earner's employments under different employers.]

#### Textual Amendments

- F59** Words in Sch. 1 para. 5 inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 34**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F60** Words in Sch. 1 para. 5(b) substituted (with effect in relation to the tax year beginning with 6.4.2000 and subsequent tax years) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 74(4), 86** (with s. 74(8))

#### *[<sup>F61</sup> Class 1B contributions*

#### Textual Amendments

- F61** Sch. 1 para. 5A and cross-heading inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(7)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3

- 5A Regulations [<sup>F62</sup>made by the Inland Revenue] may make provision for calculating the amount of Class 1B contributions so as to avoid fractional amounts.]

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### Textual Amendments

**F62** Words in Sch. 1 para. 5A inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 3 para. 34](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### *Power to combine collection of contributions with tax*

- 6 (1) Regulations made [<sup>F63</sup>by] the Inland Revenue may—
- [<sup>F64</sup>(a) provide for Class 1, Class 1A, Class 1B or Class 2 contributions to be paid, accounted for and recovered in a similar manner to income tax in relation to which [<sup>F65</sup>PAYE regulations] have effect;]
  - (b) apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of [<sup>F66</sup>PAYE regulations];
  - (c) make provision for the appropriation of the payments made by any person between his liabilities in respect of income tax and contributions.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be made by virtue of paragraph (a) of that sub-paragraph includes in relation to Class 1 [<sup>F67</sup>, Class 1A or Class 1B] contributions—
- (a) provision for requiring the payment of interest on sums due in respect of Class 1 [<sup>F67</sup>, Class 1A or Class 1B] contributions which are not paid by the due date, for determining the date (being, in the case of Class 1 contributions, not less than 14 days after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
  - (b) provision for requiring the payment of interest on sums due in respect of Class 1 [<sup>F67</sup>, Class 1A or Class 1B] contributions which fall to be repaid and for determining the date <sup>F68</sup>... from which such interest is to be calculated;
  - (c) provision for, or in connection with, the imposition and recovery of penalties in relation to any returns required to be made which relate to Class 1 [<sup>F67</sup>, Class 1A or Class 1B] contributions, but subject to sub-paragraph (7) and paragraph 7 below;
- and any reference to contributions or income tax in paragraph (b) or (c) of sub-paragraph (1) above shall be construed as including a reference to any interest or penalty in respect of contributions or income tax, as the case may be.
- (3) The rate of interest applicable for any purpose of this paragraph shall be the rate from time to time prescribed for that purpose under section 178 of the <sup>M1</sup>Finance Act 1989.
- [<sup>F69</sup>(4) Where—
- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
  - (b) the decision will affect a person's liability for, or the amount of, any interest due in respect of those contributions,
- regulations under sub-paragraph (1) above shall not require any such interest to be paid until the decision has been made.]
- [<sup>F70</sup>(4A) Regulations under [<sup>F71</sup>sub-paragraph (1) above] shall not require the payment of interest on a sum due in respect of a Class 1B contribution if a relevant tax appeal

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has been brought but not finally determined; and “a relevant tax appeal” means an appeal against a determination as to the amount of income tax in respect of which the person liable to pay the Class 1B contribution is accountable in accordance with the relevant PAYE settlement agreement.]

[<sup>F72</sup>(4B) Interest required to be paid, by virtue of sub-paragraph (2)(a) or (b) above, by regulations under sub-paragraph (1) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.]

(5) [<sup>F73</sup> The Secretary of State may by regulations made with the concurrence of the Inland Revenue] make such provision as the Secretary of State considers expedient in consequence of any provision made by or under [<sup>F74</sup>section 4A, 159A] or 167 above.

(6) [<sup>F75</sup>Provision made in regulations under sub-paragraph (5) above may] in particular require the inclusion—  
 (a) in returns, certificates and other documents; or  
 (b) in any other form of record;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating [<sup>F76</sup>to relevant payments or benefits within the meaning of section 4A above or (as the case may be)] to statutory sick pay, statutory maternity pay or deductions or payments made by virtue of section 167(1) above as may be prescribed by those regulations.

(7) Section 98 of the <sup>M2</sup>Taxes Management Act 1970 shall apply in relation to regulations made [<sup>F77</sup>under sub-paragraph (1) or (5)] as it applies in relation to [<sup>F78</sup>PAYE regulations].

<sup>F79</sup>(8) . . . . .

**Textual Amendments**

- F63** Word in Sch. 1 para. 6(1) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\)](#), **Sch. 3 para. 35(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F64** Sch. 1 para. 6(1)(a) substituted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), s. 87\(2\)](#), **Sch. 7 para. 77(8)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F65** Words in Sch. 1 para. 6(1)(a) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723](#), **Sch. 6 para. 185(a)** (with Sch. 7)
- F66** Words in Sch. 1 para. 6(1)(b) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723](#), **Sch. 6 para. 185(b)** (with Sch. 7)
- F67** Words in Sch. 1 para. 6(2)(a) substituted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), s. 87\(2\)](#), **Sch. 7 para. 77(9)(a)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F68** Words in Sch. 1 para. 6(2)(b) repealed (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), s. 87\(2\)](#), Sch. 7 para. 77(9)(b), **Sch. 8**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F69** Sch. 1 para. 6(4) substituted (4.3.1999 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\)](#), **Sch. 7 para. 9**; S.I. 1999/527, art. 2(a), Sch. 1 (with arts. 3-6)
- F70** Sch. 1 para. 6(4A) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), s. 87\(2\)](#), **Sch. 7 para. 77(11)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3

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- F71** Words in Sch. 1 para. 6(4A) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 5](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F72** Sch. 1 para. 6(4B) inserted (with effect in accordance with s. 147(5) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 147\(2\)](#)
- F73** Words in Sch. 1 para. 6(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 17\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F74** Words in Sch. 1 para. 6(5) substituted (6.4.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(b\), Sch. 12 para. 78\(6\)\(a\)](#); S.I. 1999/3420, art. 4(d)
- F75** Words in Sch. 1 para. 6(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 17\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F76** Words in Sch. 1 para. 6(6) inserted (6.4.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(b\), Sch. 12 para. 78\(6\)\(b\)](#); S.I. 1999/3420, art. 4(d)
- F77** Words in Sch. 1 para. 6(7) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 17\(c\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F78** Words in Sch. 1 para. 6(7) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 185\(c\)](#) (with Sch. 7)
- F79** Sch. 1 para. 6(8) repealed (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 35\(3\), Sch. 10 Pt. I](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### Marginal Citations

- M1** 1989 c. 26.  
**M2** 1970 c. 9.

#### *Special penalties in the case of certain returns*

- 7 (1) This paragraph applies where regulations under <sup>F80</sup>sub-paragraph (1) of paragraph 6] above make provision requiring any return which is to be made in accordance with a specified provision of regulations under <sup>F80</sup>that sub-paragraph] (the “contributions return”) to be made—
- (a) at the same time as any specified return required to be made in accordance with a provision of <sup>F81</sup>PAYE regulations or regulations made under<sup>F82</sup>section 70(1)(a) or 71 (sub-contractors) of the Finance Act 2004] to which section 98A of the Taxes Management Act 1970 applies (the “tax return”); or
- (b) if the circumstances are such that the return mentioned in paragraph (a) above does not fall to be made, at a time defined by reference to the time for making that return, had it fallen to be made;
- and, in a case falling within paragraph (b) above, any reference in the following provisions of this paragraph to the tax return shall be construed as a reference to the return there mentioned.
- (2) Where this paragraph applies, regulations under <sup>F83</sup>paragraph 6(1)] above may provide that section 98A of the <sup>M3</sup>Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns) shall apply in relation to any specified provision of regulations in accordance with which the contributions return is required to be

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made; and where they so provide then, subject to the following provisions of this paragraph—

- (a) that section shall apply in relation to the contributions return as it applies in relation to the tax return; and
- (b) sections 100 to 100D and 102 to <sup>F84</sup>105] of that Act shall apply in relation to a penalty under section 98A of that Act to which a person is liable by virtue of this sub-paragraph as they apply in relation to any other penalty under that section.

(3) Where a person <sup>F85</sup>has been required to pay] a penalty under paragraph (a) of subsection (2) of section 98A of that Act (first twelve months' default) in consequence of a failure in respect of a tax return, he shall not also <sup>F86</sup>be required to pay] a penalty under that paragraph in respect of any failure in respect of the associated contributions return.

(4) In any case where—

- (a) a person is liable to a penalty under subsection (2)(b) or (4) of that section (tax-related penalties) in respect of both a tax return and its associated contributions return, and
- (b) an officer of the Inland Revenue authorised for the purposes of section 100 of that Act has determined that a penalty is to be imposed under that provision in respect of both returns,

the penalty so imposed shall be a single penalty of an amount not exceeding the limit determined under sub-paragraph (5) below.

(5) The limit mentioned in sub-paragraph (4) above is an amount equal to the sum of—

- (a) the maximum penalty that would have been applicable under subsection (2) (b) or (4) of section 98A of that Act (as the case may be) for a penalty in relation to the tax return only; and
- (b) the maximum penalty that would have been so applicable in relation to the associated contributions return only.

(6) So much of any single penalty imposed by virtue of sub-paragraph (4) above as is recovered by the Inland Revenue shall, after the deduction of any administrative costs of the Inland Revenue attributable to its recovery, <sup>F87</sup>for the purposes of making any payment into the National Insurance Fund be apportioned between income tax and contributions] in the ratio T:C, where—

T is the maximum penalty that could have been imposed under the provision in question in relation to the tax return only; and

C is the maximum penalty that could have been so imposed in relation to the associated contributions return only.

<sup>F88</sup>(7) .....

(8) <sup>F89</sup>Sub-paragraph (6)] above shall have effect notwithstanding any provision which treats a penalty under section 98A of that Act as if it were tax charged in an assessment and due and payable.

(9) In the application of section 98A of that Act by virtue of this paragraph, any reference to a year of assessment shall be construed, in relation to a contributions return, as a reference to the tax year corresponding to that year of assessment.



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- (10) In the application of section 100D of that Act (court proceedings for penalties in cases of fraud) by virtue of this paragraph—
- (a) subsection (2) shall have effect with the omission of the words “ or Northern Ireland ” and paragraph (c); and
  - (b) subsection (3) shall have effect with the omission of the words from “ and any such proceedings instituted in Northern Ireland ” onwards.
- (11) In the application of section 103 of that Act (time limit for recovery) by virtue of this paragraph—
- (a) any reference in subsection (1) to tax shall be taken to include a reference to Class 1<sup>F90</sup>, Class 1A and Class 1B] contributions;
  - (b) any penalty by virtue of sub-paragraph (4) above shall be regarded as a penalty in respect of the tax return in question; and
  - (c) where, by virtue of subsection (2) (death), subsection (1)(b) does not apply in relation to a penalty under section 98A(2)(b) or (4) of that Act in respect of a tax return, it shall also not apply in relation to a penalty so imposed in respect of the associated contributions return.
- <sup>F91</sup>(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph shall not be imposed where—
- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, and has not yet been made; and
  - (b) the decision will affect a person’s liability for the penalty, or the amount of it.]
- (13) For the purposes of this paragraph—
- (a) “contributions return” and “tax return” shall be construed in accordance with sub-paragraph (1) above; and
  - (b) a contributions return and a tax return are “associated” if the contributions return is required to be made—
    - (i) at the same time as the tax return, or
    - (ii) where sub-paragraph (1)(b) above applies, at a time defined by reference to the time for making the tax return.

#### Textual Amendments

- F80** Words in Sch. 1 para. 7(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 18\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F81** Words in Sch. 1 para. 7(1)(a) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 185\(d\)](#) (with Sch. 7)
- F82** Words in Sch. 1 para. 7(1)(a) substituted (with effect in relation to payments made on or after 6.4.2007 under contracts relating to construction operations) by [Finance Act 2004 \(c. 12\), s. 77\(1\), Sch. 12 para. 13\(2\)](#) (with s. 77(2)-(8)); S.I. 2006/3240
- F83** Words in Sch. 1 para. 7(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 18\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F84** Word in Sch. 1 para. 7(2)(b) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 76\(2\), 86](#)

*Status: Point in time view as at 06/04/2014.*

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- F85** Words in Sch. 1 para. 7(3) substituted (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), **ss. 56(1)(a)**, 87(2); S.I. 1999/526, art. 2(3)(4)(a)
- F86** Words in Sch. 1 para. 7(3) substituted (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), **ss. 56(1)(b)**, 87(2); S.I. 1999/526, art. 2(3)(4)(a)
- F87** Words in Sch. 1 para. 7(6) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 36(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F88** Sch. 1 para. 7(7) repealed (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 36(3)**, **Sch. 10 Pt. I**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F89** Words in Sch. 1 para. 7(8) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 36(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F90** Words in Sch. 1 para. 7(11)(a) substituted (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(12)**; S.I. 1998/2209, art. 2(c), Sch. Pt. 3
- F91** Sch. 1 para. 7(12) substituted (4.3.1999 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 7 para. 10**; S.I. 1999/527, art. 2(a), Sch. 1 (with arts. 3-6)

#### Modifications etc. (not altering text)

- C1** Sch. 1 para. 7 modified (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\)](#), s. 97(2), **Sch. 24 para. 30**; S.I. 2008/568, art. 2(a)(b)(c)(d)(e)(f) (with art. 3)

#### Marginal Citations

- M3** 1970 c. 9.

<sup>F92</sup>7A (1) This paragraph applies where paragraph 7 above applies; and in this paragraph “contributions return” has the same meaning as in that paragraph.

- (2) Without prejudice to paragraph 7(2) above or to the [<sup>F93</sup>other] powers of the Inland Revenue to penalise omissions or errors in returns, regulations [<sup>F94</sup>made by the Treasury] may provide for the [<sup>F95</sup>Inland Revenue] to impose penalties in respect of a person who, in making a contributions return, fraudulently or negligently—
- (a) fails to provide any information or computation that he is required to provide; or
  - (b) provides any such information or computation that is incorrect.
- (3) Regulations under sub-paragraph (2) above shall—
- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
  - (b) provide for the penalty to be imposed by the [<sup>F96</sup>Inland Revenue] within six years after the date on which the penalty is incurred;
  - (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
  - (d) prescribe the means by which the penalty is to be enforced; and
  - (e) provide for enabling the [<sup>F97</sup>Inland Revenue, in their] discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.]

#### Textual Amendments

- F92** Sch. 1 para. 7A inserted (4.3.1999 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), **ss. 56(2)**, 87(2); S.I. 1999/526, art. 2(1)(2)(b)

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- F93** Word in Sch. 1 para. 7A(2) inserted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 6\(2\)\(a\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F94** Words in Sch. 1 para. 7A(2) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 37](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F95** Words in Sch. 1 para. 7A(2) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 6\(2\)\(b\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F96** Words in Sch. 1 para. 7A(3)(b) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 6\(3\)\(a\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F97** Words in Sch. 1 para. 7A(3)(e) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 6\(3\)\(b\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)

*[<sup>F98</sup>Collection of contributions [<sup>F99</sup>otherwise than through PAYE system]*

**Textual Amendments**

- F98** Sch. 1 para. 7B and cross-heading inserted (4.3.1999 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\), ss. 57, 87\(2\)](#); S.I. 1999/526, art. 2(1)(2)(c)
- F99** Words in Sch. 1 para. 7B cross-heading substituted (4.3.1999 for specified purposes, 1.4.1999 for remaining purposes) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(2\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)

- 7B (1) [<sup>F100</sup>The Treasury may by regulations] provide that, in such cases or circumstances as may be [<sup>F101</sup>prescribed, Class 1, Class 1A, Class 1B or Class 2 contributions shall be paid to the Inland Revenue in a manner different from that in which income tax in relation to which [<sup>F102</sup>PAYE regulations] apply is payable.]
- (2) Regulations under this paragraph may, in particular—
- (a) provide for returns to be made to the [<sup>F103</sup>Inland Revenue] by such date as may be prescribed;
  - (b) prescribe the form in which returns are to be made, or provide for returns to be made in such form as the [<sup>F103</sup>Inland Revenue] may approve;
  - (c) prescribe the manner in which contributions are to be paid, or provide for contributions to be paid in such manner as the [<sup>F103</sup>Inland Revenue] may approve;
  - (d) prescribe the due date for the payment of contributions;
  - [<sup>F104</sup>(e) require interest to be paid on contributions that are not paid by the due date, and provide for determining the date from which such interest is to be calculated;]
  - (f) provide for interest to be paid on contributions that fall to be repaid;
  - (g) provide for determining the date from which interest to be charged or paid pursuant to regulations under paragraph (e) or (f) above is to be calculated;
  - (h) provide for penalties to be imposed in respect of a person who—
    - (i) fails to submit, within the time allowed, a return required to be made in accordance with regulations under paragraph (a) above;

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- (ii) in making such a return, fraudulently or negligently fails to provide any information or computation that he is required to provide;
- (iii) in making such a return, fraudulently or negligently provides any incorrect information or computation; or
- (iv) fails to pay Class 2 contributions by the due date;
- (i) provide for a penalty imposed pursuant to regulations under paragraph (h) above to carry interest from the date on which it becomes payable until payment.

(3) Where—

- (a) a decision relating to contributions falls to be made under section 8, 9, 10, 12, 14 or 15 of the Social Security Act 1998; and
- (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (2)(e) above shall not require any such interest to be paid until the decision has been made.

<sup>F105</sup>(4) .....

(5) Regulations under sub-paragraph (2)(h) above shall—

- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
- (b) <sup>F106</sup>... provide for the penalty to be imposed by the [<sup>F107</sup>Inland Revenue]—
  - (i) within six years after the date on which the penalty is incurred; or
  - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within three years after the final determination of the amount of those contributions;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the [<sup>F108</sup>Inland Revenue, in their] discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.

[ Regulations under this paragraph may, in relation to any penalty imposed by such <sup>F109</sup>(5A) regulations, make provision applying (with or without modifications) any enactment applying for the purposes of income tax that is contained in Part X of the Taxes Management Act 1970 (penalties).]

<sup>F110</sup>(6) .....

(7) Section 12 above shall not apply in relation to Class 2 contributions in respect of which the [<sup>F111</sup>Inland Revenue][<sup>F111</sup>charge] interest or [<sup>F111</sup>impose] a penalty pursuant to regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(8) Interest or penalties may be charged by virtue of regulations under this paragraph in respect of a period before the coming into force of section 57 of the Social Security Act 1998 but only to the extent that interest or penalties would have been chargeable if the contributions in question had been recoverable, in respect of that period, by virtue of regulations under paragraph 6 above.

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- (9) Any reference to contributions in sub-paragraph (1) above shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of sub-paragraph (2) above.
- (10) The rate of interest applicable for any purpose of this paragraph shall be the rate from time to time prescribed under section 178 of the Finance Act 1989 for the corresponding purpose of paragraph 6 above.]

#### Textual Amendments

- F100** Words in Sch. 1 para. 7B(1) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 38](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F101** Words in Sch. 1 para. 7B(1) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(3\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F102** Words in Sch. 1 para. 7B(1) substituted (6.4.2003 with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 6 para. 185\(e\)](#) (with Sch. 7)
- F103** Words in Sch. 1 para. 7B(1) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(3\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F104** Sch. 1 para. 7B(2)(e) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 76\(3\), 86](#)
- F105** Sch. 1 para. 7B(4) repealed (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(5\), Sch. 10 Pt. I](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F106** Words in Sch. 1 para. 7B(5)(b) repealed (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(6\)\(a\), Sch. 10 Pt. I](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F107** Words in Sch. 1 para. 7B(5)(b) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(6\)\(a\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F108** Words in Sch. 1 para. 7B(5)(e) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(6\)\(b\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F109** Sch. 1 para. 7B(5A) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), ss. 76\(4\), 86](#)
- F110** Sch. 1 para. 7B(6) repealed (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(5\), Sch. 10 Pt. I](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)
- F111** Words in Sch. 1 para. 7B(7) substituted (4.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 9 para. 7\(7\)](#); S.I. 1999/527, art. 2(a)(b), Schs. 1, 2 (with arts. 3-6)

#### Modifications etc. (not altering text)

- C2** Sch. 1 para. 7B modified by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 30](#) (as amended (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 57 para. 9](#))
- C3** Sch. 1 para. 7B modified (1.4.2013) by [Finance Act 2012 \(c. 14\), Sch. 38 para. 54](#); S.I. 2013/279, art. 2

[<sup>F112</sup>7B(1A)] The Inland Revenue may by regulations provide for Class 1, Class 1A, Class 1B or Class 2 contributions to which regulations under paragraph 7B apply to be recovered in a similar manner to income tax.

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- (2) Regulations under sub-paragraph (1) may apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of PAYE regulations.
- (3) Any reference to contributions in this paragraph shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of paragraph 7B(2).]

#### Textual Amendments

**F112** Sch. 1 para. 7BZA inserted (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), ss. **5(4)**, 13; S.I. 2004/1943, art. 2(e)

- [<sup>F113</sup>7BA The Inland Revenue may by regulations provide for amounts in respect of contributions or interest that fall to be paid or repaid in accordance with any regulations under this Schedule to be set off, or to be capable of being set off, in prescribed circumstances and to the prescribed extent, against any such liabilities under regulations under this Schedule of the person entitled to the payment or repayment as may be prescribed.]

#### Textual Amendments

**F113** Sch. 1 para. 7BA inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. **76(5)**, 86

#### *General regulation - making powers*

- 8 (1) [<sup>F114</sup>The appropriate authority may by regulations] provide—
- (a) for requiring persons to maintain, in such form and manner as may be prescribed, records—
- (i) of the earnings paid by them to and in respect of earners, and
- (ii) of the contributions paid or payable in respect of earnings so paid,
- for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed;
- [<sup>F115</sup>(aa) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for purposes connected with the employment allowance provisions (within the meaning of the National Insurance Contributions Act 2014), and to retain the records for so long as may be prescribed;]
- (b) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for the purpose of enabling the incidence of liability for Class 1A [<sup>F116</sup>or Class 1B] contributions to be determined, and to retain the records for so long as may be prescribed;
- (c) for treating primary Class 1 contributions, when payable on the primary contributor's behalf by the secondary contributor, but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary

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- contributor and, in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period;
- [<sup>F117</sup>(ca) for requiring a secondary contributor to notify a person to whom any of his liabilities are transferred by an election under paragraph 3B above of—
- (i) any transferred liability that arises;
  - (ii) the amount of any transferred liability that arises; and
  - (iii) the contents of any notice of withdrawal by the Inland Revenue of any approval that relates to that election;]
- (d) for treating, for the purpose of any entitlement to benefit, contributions paid at or after any prescribed time as paid at some other time (whether earlier or later) or, in the case of contributions paid after the due date for payment, or at such later date as may be prescribed, as not having been paid;
- (e) for enabling contributions to be treated as paid in respect of a tax year earlier or later than that in respect of which they were actually paid;
- (f) for treating (for the purposes of Class 2 contributions) a week which falls partly in one, and partly in another, tax year as falling wholly within one or the other of those tax years;
- (g) for treating contributions of the wrong class, or at the wrong rate, or of the wrong amount, as paid on account of contributions properly payable (notwithstanding section 14 above, in the case of Class 3 contributions) or as paid (wholly or in part) in discharge of a liability for a [<sup>F118</sup>contributions equivalent premium];
- (h) for the repayment, in prescribed cases, of the whole or a prescribed part of any contributions paid by reference to earnings which have become repayable;
- [<sup>F119</sup>(i) .....
- [<sup>F120</sup>(ia) for the repayment, in prescribed cases, of the whole or a prescribed part [<sup>F121</sup>of a Class 1A or] of a Class 1B contribution;]
- (j) for the repayment, on the making of an application in the prescribed manner and within the prescribed time, of Class 2 contributions paid by a person in respect of a period which consists of, or falls within, a tax year for which his earnings from employment as a self-employed earner were, or were such as to be treated by regulations under subsection (4) of section 11 above as being, at a lower rate than the one specified in that subsection for that year;
- (k) for excepting a person from liability for contributions repaid by virtue of paragraph (j) above, to the extent that he would not have been so excepted by virtue of section 11(4) above;
- (l) without prejudice to paragraph (g) above, for enabling—
- (i) the whole or part of any payment of secondary Class 1 contributions to be treated as a payment of Class 1A contributions [<sup>F122</sup>or a Class 1B contribution];
  - (ii) the whole or part of any payment of Class 1A contributions to be treated as a payment of secondary Class 1 contributions [<sup>F123</sup>, a Class 1B contribution] or Class 2 contributions;
- [<sup>F124</sup>(ia) the whole or part of any payment of a Class 1B contribution to be treated as a payment of secondary Class 1 contributions, Class 1A contributions or Class 2 contributions;]

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- (iii) the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions [<sup>F125</sup>, Class 1A contributions or a Class 1B contribution];
- (m) for the return of the whole or any prescribed part of any contributions paid either in error or in such circumstances that, under any provision of Part I of this Act or of regulations, they fall to be repaid;
- (n) for treating a person as being an employed earner, notwithstanding that his employment is outside Great Britain;
- (o) for treating a person’s employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed;
- <sup>F126</sup>(p) . . . . .
- (q) for any other matters incidental to the payment, collection or return of contributions.

[<sup>F127</sup>(1A) In sub-paragraph (1), “the appropriate authority” means the Treasury, except that, in relation to—

- (a) provision made by virtue of paragraph (d) of that sub-paragraph, and
- (b) provision made by virtue of paragraph (q) of that sub-paragraph in relation to the matters referred to in paragraph (d),

it means the Secretary of State [<sup>F128</sup>acting with the concurrence of the Inland Revenue].]

<sup>F129</sup>(2) . . . . .

<sup>F129</sup>(3) . . . . .

**Textual Amendments**

- F114** Words in Sch. 1 para. 8(1) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 3 para. 39(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F115** Sch. 1 para. 8(1)(aa) inserted (6.4.2014) by [National Insurance Contributions Act 2014 \(c. 7\)](#), **ss. 7(1), 8**
- F116** Words in Sch. 1 para. 8(1)(b) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(14)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F117** Sch. 1 para. 8(1)(ca) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 77(4), 86**
- F118** Words in Sch. 1 para. 8(1)(g) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 14**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F119** Sch. 1 para. 8(1)(i) repealed (with effect in relation to the tax year beginning with 6.4.2000 and subsequent tax years) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, **Sch. 9 Pt. VIII(1)**
- F120** Sch. 1 para. 8(1)(ia) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(15)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F121** Words in Sch. 1 para. 8(1)(ia) inserted (with effect in relation to the tax year beginning with 6.4.2000 and subsequent tax years) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 74(5), 86** (with s. 74(8))
- F122** Words in Sch. 1 para. 8(1)(l)(i) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 77(16)(a)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3



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- F123** Words in Sch. 1 para. 8(1)(l)(ii) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(16)(b)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F124** Sch. 1 para. 8(1)(l)(iia) inserted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(16)(c)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F125** Words in Sch. 1 para. 8(1)(l)(iii) substituted (8.9.1998 for specified purposes, 6.4.1999 in so far as not already in force) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 77(16)(d)**; S.I. 1998/2209, art. 2(b)(c), Sch. Pts. 2, 3
- F126** Sch. 1 para. 8(1)(p) repealed (1.7.1997) by Social Security Administration (Fraud) Act 1997 (c. 47), s. 25(1), **Sch. 2**; S.I. 1997/1577, art. 2, **Sch.**
- F127** Sch. 1 para. 8(1A) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 3 para. 39(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F128** Words in Sch. 1 para. 8(1A) inserted (11.11.1999) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(4)(d), **Sch. 11 para. 3**
- F129** Sch. 1 para. 8(2)(3) repealed (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 13 Pt. VI**; S.I. 1999/3420, art. 4(e)

- 9 [F130The Treasury may by regulations] provide that—
- (a) for the purpose of determining whether a contribution is payable in respect of any person, or
- (b) for determining the amount or rate of any contribution,
- he is to be treated as having attained at the beginning of a week, or as not having attained until the end of a week, any age which he attains during the course of that week.

#### Textual Amendments

- F130** Words in Sch. 1 para. 9 substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 3 para. 40**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### *Deduction of contributions from pension, etc.*

- 10 (1) Where a person is in receipt of a pension or allowance payable by the Secretary of State by virtue of any prescribed enactment or instrument, the Secretary of State may with the consent of that person pay any contributions (other than Class 1 or Class 4 contributions) payable by him and deduct the amount so paid from the pension or allowance.
- (2) Sub-paragraph (1) above shall have effect notwithstanding anything in any Act, Royal Warrant, Order in Council, order or scheme.

#### *Sickness payments counting as remuneration*

- 11 (1) [F131The Treasury may by regulations] make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 4(1) above, is to be treated as remuneration derived from employed earner's employment is to be made.
- (2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the<sup>M4</sup>Friendly Societies Act 1974) to make amendments to its rules, the amendments may, notwithstanding

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any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the Chief Registrar of Friendly Societies for the purposes of this paragraph.

**Textual Amendments**

**F131** Words in Sch. 1 para. 11(1) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 3 para. 41](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Marginal Citations**

**M4** 1974 c. 46.

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