



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART I

#### CONTRIBUTIONS

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

- C1** Pt. I (ss. 1-19): power to modify conferred (7.2.1994) by 1993 c. 49, s. 35, **Sch. 1 Pt. I para. 5(3)(d)**; S.R. 1994/17, **art. 2**  
Pt. I (ss. 1-19) amended (1.4.1999) by 1999 c. 2, s. 3(1)(7); S.I. 1999/527, art. 2(b), **Sch. 2**

#### *Preliminary*

### **1 Outline of contributory system.**

(1) The funds required—

- (a) for paying such benefits under this Act as are payable out of the National Insurance Fund and not out of other public money; and
- (b) for the making of payments under section 142 of the Administration Act towards the cost of the health service,

shall be provided by means of contributions payable to the [<sup>F1</sup>Inland Revenue] by earners, employers and others, together with the additions under subsection (5) below [<sup>F2</sup>and amounts payable under Article 4 of the Social Security (Northern Ireland) Order 1993].

(2) Contributions under this Part of this Act shall be of the following [<sup>F3</sup>six] classes—

- (a) Class 1, earnings-related, payable under section 6 below, being—
  - (i) primary Class 1 contributions from employed earners; and

*Status: Point in time view as at 21/09/2008.*

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- (ii) secondary Class 1 contributions from employers and other persons paying earnings;
  - (b) Class 1A, payable under section 10 below <sup>F4</sup>. . . by persons liable to pay secondary Class 1 contributions and certain other persons;
  - <sup>F5</sup>(bb) Class 1B, payable under section 10A below by persons who are accountable to the Inland Revenue in respect of income tax on [<sup>F6</sup>general earnings] in accordance with a PAYE settlement agreement;]
  - (c) Class 2, flat-rate, payable weekly under section 11 below by self-employed earners;
  - (d) Class 3, payable under section 13 below by earners and others voluntarily with a view to providing entitlement to benefit, or making up entitlement; and
  - (e) Class 4, payable under section 15 below in respect of the profits or gains of a trade, profession or vocation, or under section 18 below in respect of equivalent earnings.
- (3) The amounts and rates of contributions in this Part of this Act and the other figures in it which affect the liability of contributors shall—
- (a) be subject to regulations under sections 19(4) and 116 to 119 below; and
  - (b) to the extent provided for by section 129 of the Administration Act be subject to alteration by orders made under that section,
- and the provisions of this Part of this Act are subject to the provisions of [<sup>F7</sup>Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and social security benefits for members of certified schemes)].
- (4) Schedule 1 to this Act—
- (a) shall have effect with respect to the computation, collection and recovery of contributions of Classes 1, 1A, [<sup>F8</sup>1B,] 2 and 3, and otherwise with respect to contributions of those classes; and
  - (b) shall also, to the extent provided by regulations made under section 18 below, have effect with respect to the computation, collection and recovery of Class 4 contributions, and otherwise with respect to such contributions, <sup>F9</sup>. . .
- (5) For each financial year there shall, by way of addition to contributions, be paid out of money hereafter appropriated for that purpose, in such manner and at such times as the Department of Finance and Personnel may determine, amounts the total of which for any such year is equal to the aggregate of all statutory sick pay [<sup>F10</sup>, statutory maternity pay, statutory paternity pay and statutory adoption pay] recovered by employers and others in that year, as estimated by the Department.
- (6) No person shall—
- (a) be liable to pay Class 1, Class 1A [<sup>F11</sup>, Class 1B] or Class 2 contributions unless he fulfils prescribed conditions as to residence or presence in Northern Ireland;
  - (b) be entitled to pay Class 3 contributions unless he fulfils such conditions; or
  - (c) be entitled to pay Class 1, Class 1A [<sup>F11</sup>, Class 1B] or Class 2 contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

<sup>F12</sup>(7) Regulations under subsection (6) above shall be made by the Treasury.]

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### Textual Amendments

- F1** Words in s. 1(1) substituted (24.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 5(2)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F2** Words in s. 1(1) added (17.3.1993) by S.I. 1993/592 (N.I. 2), **arts. 1(2), 4(9)**
- F3** Word in s. 1(2) substituted (9.9.1998 for the purpose of making regulations and 6.4.1999 otherwise) by S.I. 1998/1506, art. 78(1), **Sch. 6 para. 38(1)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F4** Words in s. 1(2)(b) repealed (with effect in relation to tax year 2000-2001 and subsequent tax years) by 2000 c. 19, ss. 78(1)(8), 85, **Sch. 9 Pt. VIII(2)**, note 1 (with s. 78(9))
- F5** S. 1(2)(bb) inserted (9.9.1998 for the purpose of making regulations and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 38(1)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F6** Words in s. 1(2)(bb) substituted (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. 191** (with **Sch. 7**)
- F7** Words in s. 1(3) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 27**; S.R. 1994/17, **art. 2**
- F8** Words in s. 1(4)(a) inserted (9.9.1998 for the purpose of making regulations and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 38(2)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F9** Words in s. 1(4)(b) repealed (omitted 24.3.1999 for specified purposes only and wholly repealed 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), 24(3), **Sch. 1 para. 5(3)**, **Sch. 9 Pt. I** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F10** Words in s. 1(5) substituted (8.12.2002) by The Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)), arts. 1(2), 7(3); S.R. 2002/356, **art. 2(2)**, **Sch. 1 Pt. II**
- F11** Words in s. 1(6) inserted (9.9.1998 for the purpose of making regulations and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 38(3)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F12** S. 1(7) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 2** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

## 2 Categories of earners.

(1) In this Part of this Act and Parts II to V—

- (a) “employed earner” means a person who is gainfully employed in Northern Ireland either under a contract of service, or in an office (including elective office) with [<sup>F13</sup>general earnings] ; and
- (b) “self-employed earner” means a person who is gainfully employed in Northern Ireland otherwise than in employed earner’s employment (whether or not he is also employed in such employment).

(2) Regulations may provide—

- (a) for employment of any prescribed description to be disregarded in relation to liability for contributions otherwise arising from employment of that description;
- (b) for a person in employment of any prescribed description to be treated, for the purposes of this Act, as falling within one or other of the categories of earner defined in subsection (1) above, notwithstanding that he would not fall within that category apart from the regulations.

[<sup>F14</sup>(2A) Regulations under subsection (2) above shall be made by the Treasury and, in the case of regulations under paragraph (b) of that subsection, with the concurrence of the Department.]

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- (3) Where a person is to be treated by reference to any employment of his as an employed earner, then he is to be so treated for all purposes of this Act; and references throughout this Act to employed earner's employment shall be construed accordingly.
- (4) Subsections (1) to (3) above are subject to the provision made by section 95 below as to the employments which are to be treated, for the purposes of industrial injuries benefit, as employed earner's employments.
- (5) For the purposes of this Act, a person shall be treated as a self-employed earner as respects any week during any part of which he is such an earner (without prejudice to his being also treated as an employed earner as respects that week by reference to any other employment of his).

#### Textual Amendments

- F13** Words in s. 2(1)(a) substituted (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. 192](#) (with [Sch. 7](#))
- F14** S. 2(2A) substituted (11.11.1999) by 1999 c. 30, ss. 81, 89(4)(d), [Sch. 11 para. 10](#)

### 3 “Earnings” and “earner”.

- (1) In this Part of this Act and Parts II to V—
  - (a) “earnings” includes any remuneration or profit derived from an employment; and
  - (b) “earner” shall be construed accordingly.
- (2) For the purposes of this Part of this Act and of Parts II to V other than those of Schedule 8—
  - (a) the amount of a person's earnings for any period; or
  - (b) the amount of his earnings to be treated as comprised in any payment made to him or for his benefit,
 shall be calculated or estimated in such manner and on such basis as may be prescribed <sup>[F15]</sup>by regulations made by the Treasury with the concurrence of the Department].
- <sup>[F16]</sup>(2A) Regulations made for the purposes of subsection (2) above may provide that, where a payment is made or a benefit provided to or for the benefit of two or more earners, a proportion (determined in such manner as may be prescribed) of the amount or value of the payment or benefit shall be attributed to each earner.]
- (3) Regulations made for the purposes of subsection (2) above may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person's earnings.
- <sup>[F17]</sup>(4) Subsection (5) below applies to regulations made for the purposes of subsection (2) above which make special provision with respect to the earnings periods of directors and former directors of companies.
- (5) Regulations to which this subsection applies may make provision—
  - (a) for enabling companies, and directors and former directors of companies, to pay on account of any earnings-related contributions that may become payable

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- by them such amounts as would be payable by way of such contributions if the special provision had not been made; and
- (b) for requiring any payments made in accordance with the regulations to be treated, for prescribed purposes, as if they were the contributions on account of which they were made.]

#### Textual Amendments

- F15** Words in s. 3(2) inserted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 4** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F16** S. 3(2A) inserted (9.9.1998) by S.I. 1998/1506 (N.I. 10), **art. 45**; S.R. 1998/312, art. 2(a), **Sch. Pt. I**
- F17** S. 3(4)(5) added (9.9.1998) by S.I. 1998/1506 (N.I. 10), **art. 46**; S.R. 1998/312, art. 2(a), **Sch. Pt. I**

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

- C2** S. 3 applied (7.2.1994) by 1993 c. 49, s. 176(1); S.R. 1994/17, **art. 2**

## 4 Payments treated as remuneration and earnings.

- (1) For the purposes of section 3 above there shall be treated as remuneration derived from employed earner's employment—
- (a) any sum paid to or for the benefit of a person in satisfaction (whether in whole or in part) of any entitlement of that person to—
- (i) statutory sick pay; or
- (ii) statutory maternity pay; [<sup>F18</sup>or
- (iii) statutory paternity pay, or
- (iv) statutory adoption pay] and
- (b) any sickness payment made—
- (i) to or for the benefit of the employed earner; and
- (ii) in accordance with arrangements under which the person who is the secondary contributor in relation to the employment concerned has made, or remains liable to make, payments towards the provision of that sickness payment.
- (2) Where the funds for making sickness payments under arrangements of the kind mentioned in paragraph (b) of subsection (1) above are attributable in part to contributions to those funds made by the employed earner, regulations may make provision for disregarding, for the purposes of that subsection, the prescribed part of any sum paid as a result of the arrangements.
- (3) For the purposes of subsections (1) and (2) above “sickness payment” means any payment made in respect of absence from work due to incapacity for work <sup>F19</sup>. . . .
- [<sup>F20</sup>(4) For the purposes of section 3 above there shall be treated as remuneration derived from an employed earner's employment—
- [<sup>F21</sup>(a) the amount of any gain calculated under section 479 [<sup>F22</sup>of ITEPA 2003 in respect of which an amount counts as employment income of the earner under section 476 of that Act (charge on acquisition of securities pursuant to option etc), reduced by any amounts deducted under section 480(1) to (6) of that Act in arriving at the amount counting as such employment income;]]

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- (b) any sum paid (or treated as paid) to or for the benefit of the earner which is chargeable to tax by virtue of [<sup>F23</sup>section 225 or 226 of ITEPA 2003] (taxation of consideration for certain restrictive undertakings).]
- (5) For the purposes of section 3 above regulations may make provision for treating as remuneration derived from an employed earner's employment any payment made by a body corporate to or for the benefit of any of its directors where that payment would, when made, not be earnings for the purposes of this Act.
- [<sup>F24</sup>(6) Regulations may make provision for the purposes of this Part—
- (a) for treating any amount on which an employed earner is chargeable to income tax under [<sup>F25</sup>the employment income Parts of ITEPA 2003] as remuneration derived from the earner's employment; and
- (b) for treating any amount which in accordance with regulations under paragraph (a) above constitutes remuneration as an amount of remuneration paid, at such time as may be determined in accordance with the regulations, to or for the benefit of the earner in respect of his employment.]
- [<sup>F26</sup>(7) Regulations under this section shall be made by the Treasury with the concurrence of the Department.]

#### Textual Amendments

- F18** S. 4(1)(a)(iii)(iv) and preceding word inserted (8.12.2002) by [The Employment \(Northern Ireland\) Order 2002 \(S.I. 2002/2836 \(N.I. 2\)\)](#), arts. 1(2), 17(1), [Sch. 2 para. 1\(1\)](#); S.R. 2002/356, [art. 2\(2\)](#), [Sch. 1 Pt. II](#)
- F19** Words in s. 4(3) repealed (13.4.1995) by [S.I. 1994/1898 \(N.I. 12\)](#), art. 13(1)(2), [Sch. 1 Pt. I para. 1](#), [Sch. 2](#) (with [art. 15\(1\)](#)); S.R. 1994/450, [art. 2](#), [Sch. Pt. IV](#)
- F20** S. 4(4) substituted (1.7.1998 for specified purposes and 9.9.1998 otherwise with effect as mentioned in art. 47(3) of the amending S.I.) by [S.I. 1998/1506 \(N.I. 10\)](#), [arts. 1\(3\)](#), 47(1)(3); S.R. 1998/312, [art. 2\(a\)](#), [Sch. Pt. I](#),
- F21** S. 4(4)(a) substituted (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. 193\(2\)](#) (with [Sch. 7](#))
- F22** Words in s. 4(4)(a) substituted (with effect in accordance with [Sch. 22 para. 48\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 22 para. 48\(1\)\(b\)](#)
- F23** Words in s. 4(4)(b) substituted (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. 193\(3\)](#) (with [Sch. 7](#))
- F24** S. 4(6) substituted (with effect in relation to tax year 2000-2001 and subsequent tax years) by [2000 c. 19](#), [s. 78\(3\)\(8\)](#) (with [s. 78\(9\)](#))
- F25** Words in s. 4(6)(a) substituted (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. 193\(4\)](#) (with [Sch. 7](#))
- F26** S. 4(7) added (1.4.1999) by [S.I. 1999/671](#), art. 4, [Sch. 3 para. 5](#) (with savings and transitional provisions in [Sch. 7](#)); S.R. 1999/149, art. 2(c), [Sch. 2](#) (subject to [arts. 3-6](#))

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

- C3** S. 4 applied (7.2.1994) by [1993 c. 49](#), [s. 176\(1\)](#); S.R. 1994/17, [art. 2](#)
- C4** S. 4(1) modified (with effect in relation to tax year 2001-2002 and subsequent tax years) by [S.R. 1979/186](#), [Sch. 1ZC Pt. X para. 7](#) (as inserted by [S.I. 2001/597](#), [regs. 1\(2\)](#), 11, [Sch. 2](#)

#### [<sup>F27</sup>4A Earnings of workers supplied by service companies etc.

- (1) Regulations may make provision for securing that where—

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- (a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services [<sup>F28</sup>for another person] (“the client”),
- (b) the performance of those services by the worker is (within the meaning of the regulations) referable to arrangements involving a third person (and not referable to any contract between the client and the worker), and
- (c) the circumstances are such that, were the services to be performed by the worker under a contract between him and the client, he would be regarded for the purposes of the applicable provisions of this Act as employed in employed earner’s employment by the client,

relevant payments or benefits are, to the specified extent, to be treated for those purposes as earnings paid to the worker in respect of an employed earner’s employment of his.

(2) For the purposes of this section—

(a) “the intermediary” means—

- (i) where the third person mentioned in subsection (1)(b) above has such a contractual or other relationship with the worker as may be specified, that third person, or
- (ii) where that third person does not have such a relationship with the worker, any other person who has both such a relationship with the worker and such a direct or indirect contractual or other relationship with the third person as may be specified; and

(b) a person may be the intermediary despite being—

- (i) a person with whom the worker holds any office or employment, or
- (ii) a body corporate, unincorporated body or partnership of which the worker is a member;

and subsection (1) above applies whether or not the client is a person with whom the worker holds any office or employment.

[ Regulations may also make provision for securing that where the services of an <sup>F29</sup>(2A) individual (“the worker”) are provided (directly or indirectly) by a managed service company (“the MSC”) relevant payments or benefits are, to the specified extent, to be treated for the purposes of the applicable provisions of this Act as earnings paid to the worker in respect of an employed earner’s employment of his.

(2B) In subsection (2A) “managed service company” has the same meaning as it has for the purpose of Chapter 9 of Part 2 of ITEPA 2003.]

(3) Regulations under this section may, in particular, make provision—

- (a) for the worker to be treated for the purposes of the applicable provisions of this Act, in relation to the specified amount of relevant payments or benefits (the worker’s “attributable earnings”), as employed in employed earner’s employment by the intermediary [<sup>F30</sup>or the MSC (as the case requires)];
- (b) for the [<sup>F31</sup>intermediary or MSC (whether or not fulfilling] the conditions prescribed under section 1(6)(a) above for secondary contributors) to be treated for those purposes as the secondary contributor in respect of the worker’s attributable earnings;
- (c) for determining—
  - (i) any deductions to be made, and

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- (ii) in other respects the manner and basis in and on which the amount of the worker's attributable earnings for any specified period is to be calculated or estimated,
    - in connection with relevant payments or benefits;
  - (d) for aggregating any such amount, for purposes relating to contributions, with other earnings of the worker during any such period;
  - (e) for determining the date by which contributions payable in respect of the worker's attributable earnings are to be paid and accounted for;
  - (f) for apportioning payments or benefits of any specified description, in such manner or on such basis as may be specified, for the purpose of determining the part of any such payment or benefit which is to be treated as a relevant payment or benefit for the purposes of the regulations;
  - (g) for disregarding for the purposes of the applicable provisions of this Act, in relation to relevant payments or benefits, an employed earner's employment in which the worker is employed (whether by the intermediary [<sup>F32</sup>or the MSC] or otherwise) to perform the services in question;
  - (h) for otherwise securing that a double liability to pay any amount by way of a contribution of any description does not arise in relation to a particular payment or benefit or (as the case may be) a particular part of a payment or benefit;
  - (i) for securing that, to the specified extent, two or more persons, whether—
    - (i) connected persons (within the meaning of [<sup>F33</sup>section 993 of the Income Tax Act 2007]), or
    - (ii) persons of any other specified description,
 are treated as a single person for any purposes of the regulations;
  - (j) (without prejudice to paragraph (i) above) for securing that a contract made with a person other than the client is to be treated for any such purposes as made with the client;
  - (k) for excluding or modifying the application of the regulations in relation to such cases, or payments or benefits of such description, as may be specified.
- (4) Regulations made in pursuance of subsection (3)(c) above may, in particular, make provision—
- (a) for the making of a deduction of a specified amount in respect of general expenses of the intermediary as well as deductions in respect of particular expenses incurred by him;
  - (b) for securing reductions in the amount of the worker's attributable earnings on account of—
    - (i) any secondary Class 1 contributions already paid by the intermediary [<sup>F34</sup>or the MSC] in respect of actual earnings of the worker, and
    - (ii) any such contributions that will be payable by [<sup>F35</sup>that person] in respect of the worker's attributable earnings.
- (5) Regulations under this section may make provision for securing that, in applying any provisions of the regulations, any term of a contract or other arrangement which appears to be of a description specified in the regulations is to be disregarded.
- (6) In this section—
- “the applicable provisions of this Act” means this Part of this Act and Parts II to V below;



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“relevant payments or benefits” means payments or benefits of any specified description made or provided (whether to the intermediary [F37 or the MSC,] or the worker or otherwise) in connection with the performance by the worker of the services in question;

“specified” means prescribed by or determined in accordance with regulations under this section.

- (7) Any reference in this section to the performance by the worker of any services includes a reference to any such obligation of his to perform them as is mentioned in subsection (1)(a) above.
- (8) Regulations under this section shall be made by the Treasury with the concurrence of the Department.
- (9) If, on any modification of the statutory provisions relating to income tax, it appears to the Treasury to be expedient to modify any of the preceding provisions of this section for the purpose of assimilating the law relating to income tax and the law relating to contributions under this Part of this Act, the Treasury may with the concurrence of the Department by order make such modifications of the preceding provisions of this section as the Treasury think appropriate for that purpose.]

#### Textual Amendments

- F27** S. 4A inserted (22.12.1999) by 1999 c. 30, s. 76; S.I. 1999/3420, art. 3
- F28** Words in s. 4A(1)(a) substituted (8.8.2003) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2003 (S.I. 2003/1884), arts. 1, 3
- F29** S. 4A(2A)(2B) inserted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(2)
- F30** Words in s. 4A(3)(a) inserted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(3)(a)
- F31** Words in s. 4A(3)(b) substituted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(3)(b)
- F32** Words in s. 4A(3)(g) inserted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(3)(c)
- F33** Words in s. 4A(3)(i) substituted (with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 292 (with Sch. 2)
- F34** Words in s. 4A(4)(b)(i) inserted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(4)(a)
- F35** Words in s. 4A(4)(b)(ii) substituted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(4)(b)
- F36** Words in s. 4A(6) omitted (8.8.2003) by virtue of The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2003 (S.I. 2003/1884), arts. 1, 4
- F37** Words in s. 4A(6) inserted (24.7.2007) by The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 4A) Order 2007 (S.I. 2007/2072), arts. 1, 2(5)

#### [F38] 4B Earnings: power to make retrospective provision in consequence of retrospective tax legislation

- (1) This section applies where—

*Status: Point in time view as at 21/09/2008.*

**Changes to legislation:** Social Security Contributions and Benefits (Northern Ireland) Act 1992, Part 1 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) a provision of the Income Tax Acts which relates to income tax chargeable under the employment income Parts of ITEPA 2003 is passed or made so as to have retrospective effect (“the retrospective tax provision”), and
  - (b) it appears to the Treasury to be appropriate to make regulations under a relevant power for the purpose of reflecting the whole or part of the provision made by the retrospective tax provision.
- (2) Those regulations may be made so as to have retrospective effect if it appears to the Treasury to be expedient, in consequence of the retrospective tax provision, for the regulations to have that effect.
- (3) A “relevant power” means a power to make regulations under any of the following provisions—
- (a) section 3 (power to prescribe the manner and basis of the calculation or estimation of earnings);
  - (b) section 4(6) (power to treat amounts chargeable to income tax under the employment income Parts of ITEPA 2003 as earnings);
  - (c) section 4A (power to treat payments or benefits to workers supplied by service companies etc as earnings).
- (4) It does not matter whether the retrospective tax provision in question was passed or made before the day on which the National Insurance Contributions Act 2006 was passed.
- (5) But nothing in subsection (2) authorises regulations to be made which have effect in relation to any time before 2nd December 2004.
- (6) Regulations under a relevant power made by virtue of subsection (2) may affect, for the purposes of any contributions legislation for the purposes of which the regulations are made, the earnings in respect of an employment paid to or for the benefit of an earner at a time before the regulations are made.
- (7) In such a case, subsections (8) and (9) apply and in those subsections and this subsection—
- “relevant contributions legislation” means any contributions legislation for the purposes of which the regulations have the effect mentioned in subsection (6);
  - “the relevant time” means the time before the regulations are made mentioned in that subsection;
  - “the revised earnings” means the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time as determined after applying the regulations.
- (8) References in any relevant contributions legislation, or any provision made under any such legislation, which relate to—
- (a) the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time, or
  - (b) the amount of such earnings so paid at that time,
- are to be read, in so far as they so relate, as references which relate to the revised earnings or, as the case may be, the amount of those earnings.
- (9) Any matter which, at the time when the regulations are made, has been determined for the purposes of any relevant contributions legislation, or any provision made under any such legislation, wholly or partly by reference to—

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- (a) the earnings, in respect of the employment, paid to or for the benefit of the earner at the relevant time, or
  - (b) the amount of such earnings so paid at that time,
- is to be redetermined as it would have been determined at the time of the original determination if it had been determined wholly or partly, as the case may be, by reference to the revised earnings or the amount of those earnings.
- (10) The matters referred to in subsection (9) may include—
    - (a) whether Class 1 contributions are payable in respect of earnings paid to or for the benefit of the earner in a tax week, and
    - (b) the amount of any such contribution.
  - (11) Subsections (7) to (10) are subject to any express provision to the contrary (including any such provision made by regulations under section 4C(1)).
  - (12) The power conferred by subsection (2) is without prejudice to any powers conferred by or by virtue of any other provision of this Act or of any other enactment.
  - (13) For the purposes of this section—
    - “contributions legislation” means any Part of this Act or provision of such a Part;
    - “enactment” has the same meaning as it has for the purposes of section 4C.

#### Textual Amendments

**F38** Ss. 4B, 4C inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\)](#), ss. 2(1), 9

#### **4C Power to make provision in consequence of provision made by or by virtue of section 4B(2) etc**

- (1) The Treasury may by regulations made with the concurrence of the relevant Northern Ireland department (if any) make such provision as appears to the Treasury to be expedient for any of the purposes mentioned in subsection (2) in consequence of any provision made by or by virtue of section 4B(2).
- (2) Those purposes are—
  - (a) any purpose relating to any contributions;
  - (b) any purpose relating to any contributory benefit or contribution-based jobseeker's allowance;
  - (c) any purpose relating to any statutory payment;
  - (d) any purpose relating to minimum payments (within the meaning of the Pensions Act) by employers to occupational pension schemes;
  - (e) any purpose of Chapter 2 of Part 3 of that Act (reduction in state scheme contributions and benefits for members of certified schemes);
  - (f) such other purposes as may be prescribed by regulations made by the Treasury with the concurrence of the relevant Northern Ireland department (if any).
- (3) Regulations under subsection (1) may, in particular, make provision—
  - (a) modifying any provision of any enactment (including this Act and any enactment passed or made on or after the commencement day);

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- (b) for any provision of any such enactment to apply in such cases, and with such modifications (if any), as the regulations may prescribe.
- (4) Regulations under subsection (1) may be made so as to have retrospective effect but must not have effect in relation to any time before 2nd December 2004.
- (5) In particular, regulations under subsection (1) made by virtue of subsection (4) may affect any of the following matters—
- (a) liability to pay contributions, including liability to pay Class 1 contributions at a reduced rate by virtue of Chapter 2 of Part 3 of the Pensions Act;
  - (b) the amount of any contribution, including the amount of any such reduced rate contribution and of any related rebate under section 37(1D) or 38A(2C) of that Act;
  - (c) entitlement to a contributory benefit or contribution-based jobseeker's allowance;
  - (d) the amount of any such benefit or allowance;
  - (e) entitlement to a statutory payment;
  - (f) the amount of any such payment;
  - (g) liability to make minimum payments (within the meaning of the Pensions Act) to occupational pension schemes;
  - (h) the amount of any such payment;
  - (i) liability to make payments under section 38A(3) of the Pensions Act or to pay minimum contributions under section 39 of that Act;
  - (j) the amount of any such payment or contribution.
- (6) In such a case, where the matter has been determined before the time when the regulations are made, the regulations may provide for the matter to be redetermined accordingly.
- (7) If (ignoring this subsection) the operative provisions would directly or indirectly have effect in any case so as—
- (a) to remove a person's entitlement to a contributory benefit, contribution-based jobseeker's allowance or statutory payment, or
  - (b) to reduce the amount of any such benefit, allowance or payment to which a person has an entitlement,
- those provisions are to be read with such modifications as are necessary to ensure that they do not have that effect.
- (8) For the purposes of subsection (7)—
- (a) “the operative provisions” are section 4B(7) to (10) and any provision made by virtue of section 4B(2) or under subsection (1) of this section;
  - (b) a person's “entitlement” includes any future entitlement which the person may have.
- (9) The powers conferred by this section are without prejudice to any powers conferred by or by virtue of any other provision of this Act or any other enactment.
- (10) In particular, any modification of any provision of an instrument by regulations made under subsection (1) is without prejudice to any other power to amend or revoke the provisions of the instrument (including the modified provision).
- (11) For the purposes of this section—

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“the commencement day” means the day on which the National Insurance Contributions Act 2006 was passed;

“enactment” includes—

- (a) Northern Ireland legislation, and
- (b) an instrument made under Northern Ireland legislation (as well as an instrument made under an Act);

“statutory payment” means—

- (a) statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay; or
- (b) any other payment prescribed by regulations made by the Treasury with the concurrence of the relevant Northern Ireland department (if any);

“the relevant Northern Ireland department”, in relation to regulations made under this section, means each Northern Ireland department responsible for any of the matters to which the regulations relate.]

**Textual Amendments**

**F38** Ss. 4B, 4C inserted (30.3.2006) by National Insurance Contributions Act 2006 (c. 10), ss. 2(1), 9

*Class 1 contributions*

[<sup>F39</sup>5 **Earnings limits and thresholds for Class 1 contributions.**

- (1) For the purposes of this Act there shall for every tax year be—
  - (a) the following for primary Class 1 contributions—
    - (i) a lower earnings limit,
    - (ii) a primary threshold, and
    - (iii) an upper earnings limit; and
  - (b) a secondary threshold for secondary Class 1 contributions.

Those limits and thresholds shall be the amounts specified for that year by regulations  
<sup>F40</sup> ...

- (2) [<sup>F41</sup>The amount specified as the lower earnings limit for any tax year shall be an amount equal to or not more than 99p less than—
  - (a) the sum which at the beginning of that year is specified in section 44(4) below as the weekly rate of the basic pension in a Category A retirement pension; or
  - (b) that sum as increased by any Act, Measure or order passed or made before the beginning of that year and taking effect before 6th May in that year.]

<sup>F42</sup>(3) .....

- (4) Regulations may, in the case of each of the limits or thresholds mentioned in subsection (1) above, prescribe an equivalent of that limit or threshold in relation to earners paid otherwise than weekly (and references in this Act or any other statutory provision to “the prescribed equivalent”, in the context of any of those limits or thresholds, are accordingly references to the equivalent prescribed under this subsection in relation to such earners).

*Status: Point in time view as at 21/09/2008.*

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- (5) The power conferred by subsection (4) above to prescribe an equivalent of any of those limits or thresholds includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit or threshold.
- (6) Regulations under this section shall be made by the Treasury.]

#### Textual Amendments

- F39** S. 5 substituted (22.12.1999 for specified purposes and 6.4.2000 otherwise) by 1999 c. 30, s. 74, **Sch. 10 para. 1**; S.I. 1999/3420, **art. 2**
- F40** Words in s. 5(1) repealed (21.9.2008) by National Insurance Contributions Act 2008 (c. 16), ss. 2(1)(a), 6(1), **Sch. 2**
- F41** S. 5(2) repealed (with effect in relation to the tax year 2011–12 and subsequent tax years) by Pensions Act 2007 (c. 22), ss. 8(3), 30(3), **Sch. 7 Pt. 4** (with ss. 5(4), 8(4)); S.I. 2010/2650
- F42** S. 5(3) repealed (with effect in relation to regulations specifying the upper earnings limit for 2009-10 or any subsequent tax year) by National Insurance Contributions Act 2008 (c. 16), ss. 2(1)(b), 6(1), **Sch. 2** (with s. 6(3))

#### [<sup>F43</sup>6 **Liability for Class 1 contributions.**

- (1) Where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner's employment—
- (a) a primary Class 1 contribution shall be payable in accordance with this section and section 8 below if the amount paid exceeds the current primary threshold (or the prescribed equivalent); and
  - (b) a secondary Class 1 contribution shall be payable in accordance with this section and section 9 below if the amount paid exceeds the current secondary threshold (or the prescribed equivalent).
- (2) No primary or secondary Class 1 contribution shall be payable in respect of earnings if a Class 1B contribution is payable in respect of them.
- (3) Except as may be prescribed, no primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.
- (4) The primary and secondary Class 1 contributions referred to in subsection (1) above are payable as follows—
- (a) the primary contribution shall be the liability of the earner; and
  - (b) the secondary contribution shall be the liability of the secondary contributor; but nothing in this subsection shall prejudice the provisions of [<sup>F44</sup>paragraphs 3 to 3B of Schedule 1 to this Act.]
- (5) Except as provided by this Act, the primary and secondary Class 1 contributions in respect of earnings paid to or for the benefit of an earner in respect of any one employment of his shall be payable without regard to any other such payment of earnings in respect of any other employment of his.
- (6) Regulations may provide for reducing primary or secondary Class 1 contributions which are payable in respect of persons to whom Part XII of the <sup>M1</sup>Employment Rights

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(Northern Ireland) Order 1996 (redundancy payments) does not apply by virtue of Article 242(2) or 250 of that Order.

(7) Regulations under this section shall be made by the Treasury.]

#### Textual Amendments

**F43** S. 6 substituted (22.12.1999 for specified purposes and 6.4.2000 otherwise) by 1999 c. 30, s. 74, **Sch. 10 para. 2**; S.I. 1999/3420, **art. 2**

**F44** Words in s. 6(4) substituted (28.7.2000) by 2000 c. 19, s. **81(3)**

#### Marginal Citations

**M1** S.I. 1996/1919 (N.I. 16).

### [<sup>F45</sup>6A **Notional payment of primary Class 1 contribution where earnings not less than lower earnings limit.**

- (1) This section applies where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner's employment and the amount paid—
  - (a) is not less than the current lower earnings limit (or the prescribed equivalent), but
  - (b) does not exceed the current primary threshold (or the prescribed equivalent).
- (2) Subject to any prescribed exceptions or modifications—
  - (a) the earner shall be treated as having actually paid a primary Class 1 contribution in respect of that week, and
  - (b) those earnings shall be treated as earnings upon which such a contribution has been paid,for any of the purposes mentioned in subsection (3) below.
- (3) The purposes are—
  - (a) the purposes of section 14(1)(a) below;
  - (b) the purposes of the provisions mentioned in section 21(5A)(a) to (c) below;
  - (c) any other purposes relating to contributory benefits; and
  - (d) any purposes relating to jobseeker's allowance.
- (4) Regulations may provide for any provision of this Act which, in whatever terms, refers—
  - (a) to primary Class 1 contributions being payable by a person, or
  - (b) otherwise to a person's liability to pay such contributions,to have effect for the purposes of this section with any prescribed modifications.
- (5) Except as may be prescribed, nothing in this section applies in relation to earnings paid to or for the benefit of an employed earner after he attains pensionable age.
- (6) Except as provided by this Act, this section applies in relation to earnings paid to or for the benefit of an earner in respect of any one employment of his irrespective of any other such payment of earnings in respect of any other employment of his.
- (7) Regulations under this section shall be made by the Treasury.]

*Status: Point in time view as at 21/09/2008.*

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#### Textual Amendments

**F45** S. 6A inserted (22.12.1999 for specified purposes and 6.4.2000 otherwise) by 1999 c. 30, s. 74, **Sch. 10 para. 3**; S.I. 1999/3420, **art. 2**

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

**C5** S. 6A(2) modified (6.4.2000) by S.I. 2000/748, **regs. 3-6**

### 7 “Secondary contributor”.

(1) For the purposes of this Act, the “secondary contributor” in relation to any payment of earnings to or for the benefit of an employed earner, is—

- (a) in the case of an earner employed under a contract of service, his employer;
- (b) in the case of an earner employed in an office with [<sup>F46</sup>general earnings], either—
  - (i) such person as may be prescribed in relation to that office; or
  - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the [<sup>F46</sup>general earnings] of the office;

but this subsection is subject to subsection (2) below.

(2) In relation to employed earners who—

- (a) are paid earnings in a tax week by more than one person in respect of different employments; or
- (b) work under the general control or management of a person other than their immediate employer,

and in relation to any other case for which it appears to the [<sup>F47</sup>Treasury] that such provision is needed, regulations may provide that the prescribed person is to be treated as the secondary contributor in respect of earnings paid to or for the benefit of an earner.

[<sup>F48</sup>(3) Regulations under any provision of this section shall be made by the Treasury.]

#### Textual Amendments

**F46** Words in s. 7(1)(b) substituted (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. 194** (with Sch. 7)

**F47** Word in s. 7(2) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 8(2)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

**F48** S. 7(3) added (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 8(3)** (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

### [<sup>F49</sup>8 Calculation of primary Class 1 contributions.

(1) Where a primary Class 1 contribution is payable as mentioned in section 6(1)(a) above, the amount of that contribution is the aggregate of—

- (a) the main primary percentage of so much of the earner’s earnings paid in the tax week, in respect of the employment in question, as—



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- (i) exceeds the current primary threshold (or the prescribed equivalent);  
but
  - (ii) does not exceed the current upper earnings limit (or the prescribed equivalent); and
  - (b) the additional primary percentage of so much of those earnings as exceeds the current upper earnings limit (or the prescribed equivalent).
- (2) For the purposes of this Act—
- (a) the main primary percentage is 11 per cent; and
  - (b) the additional primary percentage is 1 per cent;
- but the main primary percentage is subject to alteration under section 129 of the Administration Act.
- (3) Subsection (1) above is subject to—
- (a) regulations under section 6(6) above;
  - (b) regulations under sections 116 to 119 below; and
  - (c) sections 37 and 38A of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).]

#### Textual Amendments

- F49** S. 8 substituted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 1\(2\), 8\(2\)](#)

#### [<sup>F50</sup> Calculation of secondary Class 1 contributions.

- (1) Where a secondary Class 1 contribution is payable as mentioned in section 6(1)(b) above, the amount of that contribution shall be the secondary percentage of so much of the earnings paid in the tax week, in respect of the employment in question, as exceeds the current secondary threshold (or the prescribed equivalent).
- [<sup>F51</sup>(2) For the purposes of this Act the secondary percentage is 12.8 per cent; but that percentage is subject to alteration under section 129 of the Administration Act.
- (3) Subsection (1) above is subject to—
- (a) regulations under section 6(6) above;
  - (b) regulations under sections 116 to 119 below; and
  - (c) sections 37 and 38A of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment).]]

#### Textual Amendments

- F50** S. 9 substituted (22.12.1999 for specified purposes and 6.4.2000 otherwise) by [1999 c. 30, s. 74, Sch. 10 para. 5; S.I. 1999/3420, art. 2](#)
- F51** S. 9(2)(3) substituted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 2\(2\), 8\(2\)](#)

*Status: Point in time view as at 21/09/2008.*

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### *Class 1A contributions*

#### **[<sup>F52</sup>10 Class 1A contributions: benefits in kind etc.**

(1) Where—

[<sup>F53</sup>(a) for any tax year an earner is chargeable to income tax under ITEPA 2003 on an amount of general earnings received by him from any employment (“the relevant employment”),]

[<sup>F54</sup>(b) the relevant employment is both—

(i) employed earner’s employment, and

(ii) an employment, other than an excluded employment, for the purposes of the benefits code (see Chapter 2 of Part 3 of ITEPA 2003),]

(c) the whole or a part of the [<sup>F55</sup>general earnings] falls, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner,

a Class 1A contribution shall be payable for that tax year, in accordance with this section, in respect of that earner and so much of the [<sup>F56</sup>general earnings] as falls to be so left out of account.

(2) Subject to section 10ZA below, a Class 1A contribution for any tax year shall be payable by—

(a) the person who is liable to pay the secondary Class 1 contribution relating to the last (or only) relevant payment of earnings in that tax year in relation to which there is a liability to pay such a Class 1 contribution; or

(b) if paragraph (a) above does not apply, the person who, if the [<sup>F57</sup>general earnings] in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.

(3) In subsection (2) above “relevant payment of earnings” means a payment which for the purposes of Class 1 contributions is a payment of earnings made to or for the benefit of the earner in respect of the relevant employment.

(4) The amount of the Class 1A contribution in respect of any [<sup>F58</sup>general earnings] shall be the Class 1A percentage of so much of [<sup>F59</sup>them] as falls to be left out of account as mentioned in subsection (1)(c) above.

(5) In subsection (4) above “the Class 1A percentage” means a [<sup>F60</sup>secondary percentage] for the tax year in question.

(6) No Class 1A contribution shall be payable for any tax year in respect of so much of any [<sup>F61</sup>general earnings] as is taken for the purposes of the making of Class 1B contributions for that year to be included in a PAYE settlement agreement.

[<sup>F62</sup>(7) In calculating for the purposes of this section the amount of general earnings received by an earner from an employment, a deduction under any of the excluded provisions is to be disregarded.

This subsection does not apply in relation to a deduction if subsection (7A) applies in relation to it.

(7A) Where—

(a) a deduction in respect of a matter is allowed under an excluded provision, and

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- (b) the amount deductible is at least equal to the whole of any corresponding amount which would (but for this section) fall by reference to that matter to be included in the general earnings mentioned in subsection (7),  
the whole of the corresponding amount shall be treated as not included.

(7B) For the purposes of subsections (7) and (7A) “excluded provision” means—

- (a) any provision of Chapter 2 of Part 5 of ITEPA 2003 (deductions for employee’s expenses) other than section 352 (limited deduction for agency fees paid by entertainers),<sup>F63</sup> ...
- [<sup>F64</sup>(aa) any of sections 363 to 365 of ITEPA 2003 (certain deductions from benefits code earnings), or]
- (b) any provision of Chapter 5 of Part 5 of ITEPA 2003 (deductions for earnings representing benefits or reimbursed expenses).]

(8) The Treasury may by regulations—

- [<sup>F65</sup>(a) modify the effect of subsections (7) and (7A) above by amending subsection (7B) so as to include any enactment contained in the Income Tax Acts within the meaning of “excluded provision”; or]
- (b) make such amendments of [<sup>F66</sup>subsections (7) to (7B)] above as appear to them to be necessary or expedient in consequence of any alteration of the provisions of the Income Tax Acts relating to the charge to tax [<sup>F67</sup>on employment income] .

(9) The Treasury may by regulations provide—

- (a) for Class 1A contributions not to be payable, in prescribed circumstances, by prescribed persons or in respect of prescribed persons or [<sup>F68</sup>general earnings] ;
- (b) for reducing Class 1A contributions in prescribed circumstances.

<sup>F69</sup>(10) . . . . .]

#### Textual Amendments

- F52** S. 10 substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 78\(2\)](#)
- F53** S. 10(1)(a) substituted (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. 195\(2\)](#) (with Sch. 7)
- F54** S. 10(1)(b) substituted (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. 195\(3\)](#) (with Sch. 7)
- F55** Words in s. 10(1)(c) substituted (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. 195\(4\)](#) (with Sch. 7)
- F56** Words in s. 10(1) substituted (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. 195\(5\)](#) (with Sch. 7)
- F57** Words in s. 10(2)(b) substituted (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. 195\(6\)](#) (with Sch. 7)
- F58** Words in s. 10(4) substituted (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. 195\(7\)\(a\)](#) (with Sch. 7)
- F59** Word in s. 10(4) substituted (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. 195\(7\)\(b\)](#) (with Sch. 7)
- F60** Words in s. 10(5) substituted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 6, 8\(2\), Sch. 1 para. 21](#)
- F61** Words in s. 10(6) substituted (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. 195\(8\)](#) (with Sch. 7)

*Status: Point in time view as at 21/09/2008.*

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- F62** S. 10(7)-(7B) substituted for s. 10(7) (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. 195(9)** (with Sch. 7)
- F63** Word in s. 10(7B) omitted (with effect in relation to the tax year beginning with 6.4.2006 and subsequent tax years) by virtue of **The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 10(7B)) Regulations 2007 (S.I. 2007/795)**, regs. 1, 2(a)
- F64** S. 10(7B)(aa) inserted (with effect in relation to the tax year beginning with 6.4.2006 and subsequent tax years) by **The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Modification of Section 10(7B)) Regulations 2007 (S.I. 2007/795)**, regs. 1, 2(b)
- F65** S. 10(8)(a) substituted (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. 195(10)** (with Sch. 7)
- F66** Words in s. 10(8)(b) substituted (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. 195(11)(a)** (with Sch. 7)
- F67** Words in s. 10(8)(b) substituted (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. 195(11)(b)** (with Sch. 7)
- F68** Words in s. 10(9)(a) substituted (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. 195(12)** (with Sch. 7)
- F69** S. 10(10) repealed (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. 195(13), Sch. 8 Pt. 1** (with Sch. 7)

#### **[<sup>F70</sup>10ZA] Liability of third party provider of benefits in kind.**

- (1) This section applies, where—
- (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of [<sup>F71</sup>general earnings] received by an earner;
  - (b) [<sup>F72</sup>the general earnings, in so far as they are ones in respect of which] such a contribution is payable, [<sup>F73</sup>consist] in a benefit provided for the earner or a member of his family or household;
  - (c) the person providing the benefit is a person other than the person (“the relevant employer”) by whom, but for this section, the Class 1A contribution would be payable in accordance with section 10(2) above; and
  - (d) the provision of the benefit by that other person has not been arranged or facilitated by the relevant employer.
- (2) For the purposes of this Act if—
- (a) the person providing the benefit pays an amount for the purpose of discharging any liability of the earner to income tax for any tax year, and
  - (b) the income tax in question is tax chargeable in respect of the provision of the benefit or of the making of the payment itself,
- the amount of the payment shall be treated as if it were [<sup>F74</sup>general earnings] consisting in the provision of a benefit to the earner in that tax year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner.
- (3) Subject to subsection (4) below, the liability to pay any Class 1A contribution in respect of—
- (a) the benefit provided to the earner, and
  - (b) any further benefit treated as so provided in accordance with subsection (2) above,
- shall fall on the person providing the benefit, instead of on the relevant employer.

*Status: Point in time view as at 21/09/2008.*

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- (4) Subsection (3) above applies in the case of a Class 1A contribution for the tax year beginning with 6th April 2000 only if the person providing the benefit in question gives notice in writing to the Inland Revenue on or before 6th July 2001 that he is a person who provides benefits in respect of which a liability to Class 1A contributions is capable of falling by virtue of this section on a person other than the relevant employer.
- (5) The Treasury may by regulations make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Act as having arranged or facilitated the provision of any benefit.
- (6) In this section references to a member of a person's family or household shall be construed in accordance with [<sup>F75</sup>section 721(5) of ITEPA 2003] .]

#### Textual Amendments

- F70** Ss. 10ZA, 10ZB inserted (28.7.2000) by 2000 c. 19, s. 79(1)
- F71** Words in s. 10ZA(1)(a) substituted (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. 196\(2\)](#) (with [Sch. 7](#))
- F72** Words in s. 10ZA(1)(b) substituted (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. 196\(3\)\(a\)](#) (with [Sch. 7](#))
- F73** Word in s. 10ZA(1)(b) substituted (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. 196\(3\)\(b\)](#) (with [Sch. 7](#))
- F74** Words in s. 10ZA(2) substituted (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. 196\(4\)](#) (with [Sch. 7](#))
- F75** Words in s. 10ZA(6) substituted (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. 196\(5\)](#) (with [Sch. 7](#))

#### [<sup>F76</sup>10ZB] Non-cash vouchers provided by third parties.

- (1) In section 10ZA above references to the provision of a benefit include references to the provision of a non-cash voucher.
- (2) Where—
  - (a) a non-cash voucher is received by any person from [<sup>F77</sup>employment which is an excluded employment for the purposes of the benefits code, and]
  - (b) the case would be one in which the conditions in section 10ZA(1)(a) to (d) above would be satisfied in relation to the provision of that voucher [<sup>F78</sup>if that employment were not an excluded employment] ,sections 10 and 10ZA above shall have effect in relation to the provision of that voucher, and to any such payment in respect of the provision of that voucher as is mentioned in section 10ZA(2) above, [<sup>F79</sup>as if that employment were not an excluded employment] .
- (3) In this section “non-cash voucher” has the same meaning as in [<sup>F80</sup>section 84 of ITEPA 2003] .]

#### Textual Amendments

- F76** Ss. 10ZA, 10ZB inserted (28.7.2000) by 2000 c. 19, s. 79(1)
- F77** Words in s. 10ZB(2)(a) substituted (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. 197\(2\)](#) (with [Sch. 7](#))

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- F78** Words in s. 10ZB(2)(b) substituted (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. 197\(3\)](#) (with [Sch. 7](#))
- F79** Words in s. 10ZB(2) substituted (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. 197\(4\)](#) (with [Sch. 7](#))
- F80** Words in s. 10ZB(3) substituted (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. 197\(5\)](#) (with [Sch. 7](#))

### **[<sup>F81</sup>10ZC] Class 1A contributions: power to make provision in consequence of retrospective tax legislation**

- (1) The Treasury may by regulations make such provision as appears to the Treasury to be expedient for any purpose of the law relating to Class 1A contributions in consequence of any relevant retrospective tax provision—
  - (a) which is passed or made at or before the time when the regulations are made, or
  - (b) which may be passed or made after that time.
- (2) “Relevant retrospective tax provision” means a provision of the Income Tax Acts which—
  - (a) has retrospective effect, and
  - (b) affects the amount of general earnings received by an earner from an employment on which he is chargeable to income tax under the employment income Parts of ITEPA 2003 for a tax year.
- (3) It does not matter whether the relevant retrospective tax provision was passed or made before the commencement day.
- (4) Regulations under this section may, in particular, make provision—
  - (a) modifying any provision of any enactment (including this Act and any enactment passed or made on or after the commencement day);
  - (b) for any provision of any such enactment to apply in such cases, and with such modifications (if any), as the regulations may prescribe.
- (5) Regulations under this section may be made so as to have retrospective effect but must not have effect in relation to any time before 2nd December 2004.
- (6) In particular, regulations under this section made by virtue of subsection (5)—
  - (a) may affect matters determined before the time when the regulations are made, and
  - (b) may provide for those matters to be redetermined accordingly.
- (7) Regulations under this section—
  - (a) may not impose any liability to pay a Class 1A contribution, and
  - (b) may not increase the amount of any Class 1A contribution.
- (8) The powers conferred by this section are without prejudice to—
  - (a) any liability to pay a Class 1A contribution which arises by virtue of any relevant retrospective tax provision, and
  - (b) any powers conferred by or by virtue of any other provision of this Act or any other enactment.

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(9) In particular, any modification of any provision of an instrument by regulations under this section is without prejudice to any other power to amend or revoke the provisions of the instrument (including the modified provision).

(10) For the purposes of this section—

“the commencement day” means the day on which the National Insurance Contributions Act 2006 was passed;

“enactment” includes an instrument made under an Act.]

#### Textual Amendments

**F81** S. 10ZC inserted (30.3.2006) by [National Insurance Contributions Act 2006 \(c. 10\)](#), [ss. 4\(1\), 9](#)

### *[<sup>F82</sup>Class 1B contributions*

#### Textual Amendments

**F82** S. 10A and preceding cross-heading inserted (9.9.1998 for the purpose only of making regulations or orders and otherwise 6.4.1999) by [The Social Security \(Northern Ireland\) Order 1998 \(S.I. 1998/1506 \(N.I. 10\)\)](#), [art. 50](#); [S.R. 1998/312](#), [art. 2\(b\)](#), [Sch. Pt. II](#)

## **10A Class 1B contributions.**

- (1) Where for any tax year a person is accountable to the Inland Revenue in respect of income tax on [<sup>F83</sup>general earnings] of his employees in accordance with a PAYE settlement agreement, a Class 1B contribution shall be payable by him for that tax year in accordance with this section.
- (2) The Class 1B contribution referred to in subsection (1) above is payable in respect of—
  - (a) the amount of any of [<sup>F84</sup>the general earnings included] in the PAYE settlement agreement which are chargeable emoluments; and
  - (b) the total amount of income tax in respect of which the person is accountable for the tax year in accordance with the PAYE settlement agreement.
- (3) The amount of the Class 1B contribution referred to in subsection (1) above shall be the Class 1B percentage of the aggregate of the amounts mentioned in paragraphs (a) and (b) of subsection (2) above.
- (4) [<sup>F85</sup>General earnings are chargeable emoluments] for the purposes of subsection (2) above if, apart from section [<sup>F86</sup>6(2) or 10(6)] above, the person accountable in accordance with the PAYE settlement agreement would be liable or entitled to pay secondary Class 1 contributions or Class 1A contributions in respect of them.
- (5) Where—
  - (a) the PAYE settlement agreement was entered into after the beginning of the tax year; and
  - (b) Class 1 contributions were due in respect of any [<sup>F87</sup>general earnings] before it was entered into,those [<sup>F87</sup>general earnings] shall not be taken to be included in the PAYE settlement agreement.

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[ In subsection (3) above “the Class 1B percentage” means a percentage rate equal to <sup>F88</sup>(6) [<sup>F89</sup>the secondary percentage] for the tax year in question.]

(7) [<sup>F90</sup>The Treasury may by regulations] provide for persons to be excepted in prescribed circumstances from liability to pay Class 1B contributions.]

#### Textual Amendments

**F83** Words in s. 10A(1) substituted (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. 198\(2\)](#) (with [Sch. 7](#))

**F84** Words in s. 10A(2)(a) substituted (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. 198\(3\)](#) (with [Sch. 7](#))

**F85** Words in s. 10A(4) substituted (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. 198\(4\)](#) (with [Sch. 7](#))

**F86** Words in s. 10A(4) substituted (1.9.2004) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), s. 13, Sch. 1 para. 2\(2\)](#); S.I. 2004/1943, art. 5(a)(ii)

**F87** Words in s. 10A(5) substituted (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. 198\(5\)](#) (with [Sch. 7](#))

**F88** S. 10A(6) substituted (6.4.2000) by [1999 c. 30, s. 78](#); S.I. 1999/3420, [art. 4\(a\)](#)

**F89** Words in s. 10A(6) substituted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 6, 8\(2\), Sch. 1 para. 22](#)

**F90** Words in s. 10A(7) substituted (1.4.1999) by [S.I. 1999/671, art. 4, Sch. 3 para. 12](#) (with savings and transitional provisions in [Sch. 7](#)); [S.R. 1999/149, art. 2\(c\), Sch. 2](#) (subject to [arts. 3-6](#))

### Class 2 contributions

#### 11 Liability for Class 2 contributions.

(1) Every self-employed earner who is over the age of 16 shall be liable to pay Class 2 contributions at the rate of [<sup>F91</sup>£2.30] a week, subject to the provisions of this section and sections 12 and 19(4)(b) below.

(2) No Class 2 contributions shall be payable by an earner in respect of any period after he attains pensionable age.

(3) [<sup>F92</sup>The Treasury may by regulations] make provision so that an earner is liable for a weekly rate of Class 2 contributions higher than that specified in subsection (1) above where—

(a) in respect of any employment of his, he is treated by regulations under section 2(2)(b) above as being a self-employed earner; and

(b) in any period or periods he has earnings from that employment and—

(i) those earnings are such that (disregarding their amount) he would be liable for Class 1 contributions in respect of them if he were not so treated in respect of the employment, and

(ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 18(1) below.

(4) [<sup>F92</sup>The Treasury may by regulations] provide for an earner otherwise liable for Class 2 contributions in respect of employment as a self-employed earner to be excepted from the liability in respect of any period in which his earnings from such employment are, or are treated by regulations as being, less than [<sup>F93</sup>£4,825] a tax year.



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- (5) Regulations made for the purposes of subsection (4) above shall not except a person from liability to pay contributions otherwise than on his own application, but may provide for so excepting a person with effect from any date not earlier than 13 weeks before the date on which his application was made.

#### Textual Amendments

- F91** Sum in s. 11(1) substituted (6.4.2008) by [The Social Security \(Contributions\) \(Re-rating\) Order 2008 \(S.I. 2008/579\)](#), arts. 1(1), 2(a)
- F92** Words in s. 11(3)(4) substituted (1.4.1999) by [S.I. 1999/671](#), art. 4, [Sch. 3 para. 13](#) (with savings and transitional provisions in [Sch. 7](#)); [S.R. 1999/149](#), art. 2(c), [Sch. 2](#) (subject to arts. 3-6)
- F93** Sum in s. 11(4) substituted (6.4.2008) by [The Social Security \(Contributions\) \(Re-rating\) Order 2008 \(S.I. 2008/579\)](#), arts. 1(1), 2(b)

## 12 Late paid Class 2 contributions.

- (1) This section applies to any Class 2 contribution paid in respect of a week falling within a tax year (“the contribution year”) earlier than the tax year in which it is paid (“the payment year”).
- (2) Subject to subsections (3) to (5) below, the amount of a contribution to which this section applies shall be the amount which the earner would have had to pay if he had paid the contribution in the contribution year.
- (3) Subject to subsections (4) to (6) below, in any case where—
- the earner pays an ordinary contribution to which this section applies after the end of the tax year immediately following the contribution year; and
  - the weekly rate of ordinary contributions for the week in respect of which the contribution was payable in the contribution year differs from the weekly rate applicable at the time of payment in the payment year,
- the amount of the contribution shall be computed by reference to the highest weekly rate of ordinary contributions in the period beginning with the week in respect of which the contribution is paid and ending with the day on which it is paid.
- (4) The [<sup>F94</sup>Treasury] may by regulations direct that subsection (3) above shall have effect in relation to a higher-rate contribution to which this section applies subject to such modifications as may be prescribed.
- (5) Subject to subsection (6) below, for the purposes of proceedings in any court relating to an earner’s failure to pay Class 2 contributions, the amount of each contribution which he is to be treated as having failed to pay is the amount which he would have paid in accordance with subsections (1) to (3) above or regulations under subsection (6) below if he had paid that contribution on the date on which the proceedings commenced.
- (6) The [<sup>F94</sup>Treasury] may by regulations provide that the amount of any contribution which, apart from the regulations, would fall to be computed in accordance with subsection (3) or (5) above shall instead be computed by reference to a tax year not earlier than the contribution year but earlier—
- in a case falling within subsection (3) above, than the payment year; and
  - in a case falling within subsection (5) above, than the tax year in which the proceedings commenced.

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- (7) For the purposes of this section—
- (a) proceedings in the High Court or a county court commence when an action commences;
  - [<sup>F95</sup>(aa) civil proceedings in a magistrates’ court commence when a complaint is made;] and
  - (b) proceedings under section 108 of the Administration Act (offences relating to contributions) commence when a complaint is made.
- (8) In this section—
- “ordinary contribution” means a contribution under section 11(1) above; and
- “higher-rate contribution” means a contribution under regulations made under section 11(3) above.

#### Textual Amendments

- F94** Words in s. 12(4)(6) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 14** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F95** S. 12(7)(aa) inserted (1.4.1999) by S.I. 1999/671, art. 24(2), **Sch. 8 para. 1** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

### Class 3 contributions

#### 13 Class 3 contributions.

- (1) [<sup>F96</sup>The Treasury shall by regulations] provide for earners and others, if over the age of 16, to be entitled if they so wish, but subject to any prescribed conditions, to pay Class 3 contributions; and, subject to the following provisions of this section, the amount of a Class 3 contribution shall be [<sup>F97</sup>£8.10].
- (2) Payment of Class 3 contributions shall be allowed only with a view to enabling the contributor to satisfy contribution conditions of entitlement to benefit by acquiring the requisite earnings factor for the purposes described in section 22 below.
- (3) [<sup>F96</sup>The Department may by regulations] provide for Class 3 contributions, although paid in one tax year, to be appropriated in prescribed circumstances to the earnings factor of another tax year.
- (4) The amount of a Class 3 contribution in respect of a tax year earlier than the tax year in which it is paid shall be the same as if it had been paid in the earlier year and in respect of that year, unless it falls to be calculated in accordance with subsection (6) below or regulations under subsection (7) below.
- (5) In this section—
  - “the payment year” means the tax year in which a contribution is paid; and
  - “the contribution year” means the earlier year mentioned in subsection (4) above.
- (6) Subject to subsection (7) below, in any case where—
  - (a) a Class 3 contribution is paid after the end of the next tax year but one following the contribution year; and

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- (b) the amount of a Class 3 contribution applicable had the contribution been paid in the contribution year differs from the amount of a Class 3 contribution applicable at the time of payment in the payment year,  
the amount of the contribution shall be computed by reference to the highest of those two amounts and of any other amount of a Class 3 contribution in the intervening period.
- (7) The [<sup>F96</sup>Treasury] may by regulations provide that the amount of a contribution which apart from the regulations would fall to be computed in accordance with subsection (6) above shall instead be computed by reference to the amount of a Class 3 contribution for a tax year earlier than the payment year but not earlier than the contribution year.

#### Textual Amendments

- F96** Words in s. 13(1)(3)(7) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 15** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F97** Sum in s. 13(1) substituted (6.4.2008) by **The Social Security (Contributions) (Re-rating) Order 2008** (S.I. 2008/579), arts. 1(1), **3**

## 14 Restriction on right to pay Class 3 contributions.

- (1) No person shall be entitled to pay a Class 3 contribution in respect of any tax year if his earnings factor, or the aggregate of his earnings factors, for that year derived—
- (a) in the case of 1987-88 or any subsequent year, from earnings upon which Class 1 contributions have been paid or treated as paid or from Class 2 contributions actually paid; or
- (b) in the case of any earlier year, from contributions actually paid,  
is equal to or exceeds the qualifying earnings factor for that year; and regulations may provide for precluding the payment of Class 3 contributions in other cases.
- (2) Regulations may provide for the repayment of Class 3 contributions that have been paid in cases where their payment was precluded by, or by regulations made under, subsection (1) above.
- (3) Contributions repayable by virtue of regulations under subsection (2) above shall, for the purpose of determining the contributor's entitlement to any benefit, be treated as not having been paid (but nothing in this subsection shall be taken to imply that any other repayable contributions are to be treated for the purposes of benefit as having been paid).
- [<sup>F98</sup>(4) Where primary Class 1 contributions have been paid or treated as paid on any part of a person's earnings, subsection (1)(a) above shall have effect as if such contributions had been paid or treated as paid on so much of those earnings as did not exceed the upper earnings limit.]
- [<sup>F99</sup>(5) Regulations under subsection (1) or (2) above shall be made by the Treasury.]

#### Textual Amendments

- F98** S. 14(4) added (6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 41**; S.R. 1999/72, art. 2(b), **Sch.**

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**F99** S. 14(5) added (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 16** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

### Class 4 contributions

## 15 Class 4 contributions recoverable under the Income Tax Acts.

- (1) Class 4 contributions shall be payable for any tax year in respect of all [<sup>F100</sup>profits] which—
- are immediately derived from the carrying on or exercise of one or more trades, professions or vocations, <sup>F101</sup>...
  - [<sup>F102</sup>are profits chargeable to income tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005] for the year of assessment corresponding to that tax year [<sup>F103</sup>and
  - are not profits of a trade, profession or vocation carried on wholly outside the United Kingdom].

- (2) Class 4 contributions in respect of profits <sup>F104</sup>... shall be payable—
- in the same manner as any income tax which is, or would be, chargeable in respect of those profits <sup>F104</sup>... (whether or not income tax in fact falls to be paid), and
  - by the person on whom the income tax is (or would be) charged,
- in accordance with assessments made from time to time under the Income Tax Acts as applied and modified by section 16(1) to (3) of the Great Britain Contributions and Benefits Act.

[<sup>F105</sup>(3) The amount of a Class 4 contribution under this section for any tax year is equal to the aggregate of—

- the main Class 4 percentage of so much of the profits <sup>F106</sup>... referred to in subsection (1) above (computed in accordance with Schedule 2 to the Great Britain Contributions and Benefits Act, the text of which is set out as Schedule 2 to this Act) as exceeds [<sup>F107</sup>£5,435] but does not exceed [<sup>F108</sup>£40,040]; and
- the additional Class 4 percentage of so much of those profits <sup>F106</sup>... as exceeds [<sup>F108</sup>£40,040];

but the figures specified in this subsection are subject to alteration under section 129 of the Administration Act.

(3ZA) For the purposes of this Act—

- the main Class 4 percentage is 8 per cent; and
- the additional Class 4 percentage is 1 per cent;

but the main Class 4 percentage is subject to alteration under section 129 of the Administration Act.]

[<sup>F109</sup>(3A) Where income tax is (or would be) charged on a member of a limited liability partnership in respect of profits <sup>F110</sup>... arising from the carrying on of a trade or profession by the limited liability partnership, Class 4 contributions shall be payable by him if they would be payable were the trade or profession carried on in partnership by the members.]

<sup>F111</sup>(4) .....

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- (5) For the purposes of this section the year of assessment which corresponds to a tax year is the year of assessment (within the meaning of the Tax Acts) which consists of the same period as that tax year.

#### Textual Amendments

- F100** Word in s. 15(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(2\)\(a\)](#) (with Sch. 2)
- F101** Word in s. 15(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(2\)\(b\), Sch. 3](#) (with Sch. 2)
- F102** Words in s. 15(1)(b) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(2\)\(c\)](#) (with Sch. 2)
- F103** S. 15(1)(c) and preceding word inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(2\)\(d\)](#) (with Sch. 2)
- F104** Words in s. 15(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(3\), Sch. 3](#) (with Sch. 2)
- F105** S. 15(3)(3ZA) substituted (with effect for 2003-04 and subsequent tax years) for s. 15(3) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 3\(2\), 8\(2\)](#)
- F106** Words in s. 15(3) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(3\), Sch. 3](#) (with Sch. 2)
- F107** Sum in s. 15(3) substituted (6.4.2008) by [The Social Security \(Contributions\) \(Re-rating\) Order 2008 \(S.I. 2008/579\), arts. 1\(1\), 4\(a\)](#)
- F108** Sums in s. 15(3) substituted (6.4.2008) by [The Social Security \(Contributions\) \(Re-rating\) Order 2008 \(S.I. 2008/579\), arts. 1\(1\), 4\(b\)](#)
- F109** S. 15(3A) inserted (6.4.2001) by [2000 c. 12, s. 13](#); [S.I. 2000/3316, art. 2](#)
- F110** Words in s. 15(3A) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(3\), Sch. 3](#) (with Sch. 2)
- F111** S. 15(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 424\(4\), Sch. 3](#) (with Sch. 2)

## 16 Destination of Class 4 contributions.

<sup>F112</sup> .....

#### Textual Amendments

- F112** S. 16 repealed (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 7, 8\(2\), Sch. 2](#)

## 17 Exceptions, deferment and incidental matters relating to Class 4 contributions.

- (1) [<sup>F113</sup>The Inland Revenue may by regulations] provide—
- for excepting persons from liability to pay Class 4 contributions [<sup>F114</sup>, or any prescribed part of such contributions,] in accordance with section 15(1) to (3) above and section 16(1) to (3) of the Great Britain Contributions and Benefits Act; or
  - for deferring any person's liability,

<sup>F115</sup> .....

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- (2) Exception from liability, or deferment, under subsection (1) above may, in particular, be by reference—
- (a) to a person otherwise liable for contributions being under a prescribed age at the beginning of a tax year;
  - (b) to a person having attained pensionable age;
  - (c) to a person being in receipt of earnings in respect of which primary Class 1 contributions are, or may be, payable; or
  - (d) to a person not satisfying prescribed conditions as to residence or presence in the United Kingdom.
- (3) [<sup>F113</sup>The Inland Revenue may by regulations] provide for any incidental matters arising out of the payment of any Class 4 contributions recovered by the Inland Revenue, including in particular the return, in whole or in part, of such contributions in cases where—
- (a) payment has been made in error; or
  - (b) repayment ought for any other reason to be made.
- (4) [<sup>F113</sup>The Inland Revenue may by regulations] provide for any matters arising out of the deferment of liability [<sup>F116</sup>to pay Class 4 contributions, or any part of such contributions,] under subsection (1) above, including in particular provision for the amount of a person's profits or gains (as computed in accordance with the Great Britain Contributions and Benefits Act) to be certified by the Inland Revenue to <sup>F117</sup>. . . the person liable.
- (5) <sup>F118</sup> . . . . .
- <sup>F119</sup>(6) . . . . .

#### Textual Amendments

- F113** Words in s. 17(1)(3)(4) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 17(2)(3)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F114** Words in s. 17(1) inserted (with effect for 2003-04 and subsequent tax years) by **National Insurance Contributions Act 2002 (c. 19)**, ss. 6, 8(2), **Sch. 1 para. 23(2)**
- F115** Words in s. 17(1) repealed (omitted 24.3.1999 for specified purposes only and wholly repealed 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 7(a)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F116** Words in s. 17(4) substituted (with effect for 2003-04 and subsequent tax years) by **National Insurance Contributions Act 2002 (c. 19)**, ss. 6, 8(2), **Sch. 1 para. 23(3)**
- F117** Words in s. 17(4) repealed (omitted 24.3.1999 for specified purposes only and wholly repealed 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 7(b)** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F118** S. 17(5) repealed (with effect for 2003-04 and subsequent tax years) by **National Insurance Contributions Act 2002 (c. 19)**, ss. 7, 8(2), **Sch. 2**
- F119** S. 17(6) repealed (1.4.1999) by S.I. 1999/671, arts. 4, 24(3), **Sch. 3 para. 17(4)**, **Sch. 9 Pt. I** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)

## 18 Class 4 contributions recoverable under regulations.

- (1) [<sup>F120</sup>The Inland Revenue may by regulations make provision] so that where—

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- (a) an earner, in respect of any one or more employments of his, is treated by regulations under section 2(2)(b) above as being self-employed; and
  - (b) in any tax year he has earnings from any such employment (one or more) which fall within paragraph (b)(i) of subsection (3) of section 11 above but is not liable for a higher weekly rate of Class 2 contributions by virtue of regulations under that subsection; and
  - (c) the total of those earnings exceeds [<sup>F121</sup>£5,435],
- he is to be liable, in respect of those earnings, to pay a Class 4 contribution <sup>F122</sup> ... .

[<sup>F123</sup>(1A) The amount of a Class 4 contribution payable by virtue of regulations under this section is equal to the aggregate of—

- (a) the main Class 4 percentage of so much of the total of the earnings referred to in subsection (1)(b) above as exceeds [<sup>F124</sup>£5,435] but does not exceed [<sup>F125</sup>£40,040]; and
- (b) the additional Class 4 percentage of so much of that total as exceeds [<sup>F125</sup>£40,040];

but the figures specified in this subsection are subject to alteration under section 129 of the Administration Act.]

(2) [<sup>F126</sup>In relation to Class 4 contributions payable by virtue of regulations under this section], [<sup>F120</sup>regulations made by the Inland Revenue may]—

- (a) apply any of the provisions of Schedule 1 to this Act (except a provision conferring power to make regulations); and
- (b) make any such provision as may be made by regulations under that Schedule, except paragraph 6 [<sup>F127</sup>or 7BZA].

#### Textual Amendments

- F120** Words in s. 18(1)(2) substituted (1.4.1999) by S.I. 1999/671, art. 4, **Sch. 3 para. 18** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F121** Sum in s. 18(1) substituted (6.4.2008) by **The Social Security (Contributions) (Re-rating) Order 2008** (S.I. 2008/579), arts. 1(1), **4(a)**
- F122** Words in s. 18(1) repealed (with effect for 2003-04 and subsequent tax years) by **National Insurance Contributions Act 2002** (c. 19), ss. 7, 8(2), **Sch. 2**
- F123** S. 18(1A) inserted (with effect for 2003-04 and subsequent tax years) by **National Insurance Contributions Act 2002** (c. 19), **ss. 3(4), 8(2)**
- F124** Word in s. 18(1A) substituted (6.4.2008) by **The Social Security (Contributions) (Re-rating) Order 2008** (S.I. 2008/579), arts. 1(1), **4(a)**
- F125** Sums in s. 18(1A) substituted (6.4.2008) by **The Social Security (Contributions) (Re-rating) Order 2008** (S.I. 2008/579), arts. 1(1), **4(b)**
- F126** Words in s. 18(2) substituted (24.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 8** (with savings and transitional provisions in **Sch. 7**); S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6)
- F127** Words in s. 18(2)(b) inserted (1.9.2004) by **National Insurance Contributions and Statutory Payments Act 2004** (c. 3), s. 13, **Sch. 1 para. 2(3)**; S.I. 2004/1943, art. 5(a)(ii)

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## General

### 19 General power to regulate liability for contributions.

- (1) Regulations may provide either generally or in relation to—
  - (a) any prescribed category of earners; or
  - (b) earners in any prescribed category of employments,
 that their liability in a particular tax year in respect of contributions of prescribed classes [<sup>F128</sup>, or any prescribed part of such contributions,] is not to exceed such maximum amount or amounts as may be prescribed.
- (2) Regulations made for the purposes of subsection (1) above may provide—
  - (a) for an earner whose liability is subject to a maximum prescribed under that subsection to be liable in the first instance for the full amount of any contributions due from him apart from the regulations, or to be relieved from liability for such contributions in prescribed circumstances and to the prescribed extent; and
  - (b) for contributions paid in excess of any such maximum to be repaid at such times, and in accordance with such conditions, as may be prescribed.
- (3) Regulations may provide, in relation to earners otherwise liable for contributions of any class [<sup>F129</sup> or any part of such contributions] , for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.
- (4) As respects any woman who was married or a widow on 6th April 1977 (the date of the coming into force of the repeal of the old provisions that primary Class 1 contributions might be paid at a reduced rate and Class 2 contributions need not be paid by a married woman or a widow) regulations shall provide—
  - (a) for enabling her to elect that [<sup>F130</sup>so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) above] shall be a liability to contribute at such reduced rate as may be prescribed; and
  - (b) either for enabling her to elect that her liability in respect of Class 2 contributions shall be a liability to contribute at such reduced rate as may be prescribed or for enabling her to elect that she shall be under no liability to pay such contributions; and
  - (c) for enabling her to revoke any such election.
- (5) Regulations under subsection (4) above may—
  - (a) provide for the making or revocation of any election under the regulations to be subject to prescribed exceptions and conditions;
  - (b) preclude a person who has made such an election from paying Class 3 contributions while the election has effect;
  - (c) provide for treating an election made or revoked for the purpose of any provision of the regulations as made or revoked also for the purpose of any other provision of the regulations;
  - (d) provide for treating an election made in accordance with regulations under section 125(2) of the 1975 Act as made for the purpose of regulations under subsection (4) above.

[<sup>F131</sup>(5A) Regulations under any of subsections (1) to (5) above shall be made by the Treasury.]

- (6) [<sup>F132</sup>The Department may by regulations] provide for earnings factors to be derived, for such purposes as may be prescribed, as follows, that is to say—



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- (a) in the case of earnings factors for 1987-88 or any subsequent tax year—
  - (i) from earnings upon which primary Class 1 contributions are paid at a reduced rate by virtue of regulations under subsection (4) above; or
  - (ii) from Class 2 contributions paid at a reduced rate by virtue of such regulations; and
- (b) in the case of earnings factors for any earlier tax year, from contributions which are paid at a reduced rate by virtue of regulations under subsection (4) above;

and if provision is made for a person to have earnings factors so derived for the purpose of establishing entitlement to any benefit, the regulations may, in relation to that person, vary or add to the requirements for entitlement to that benefit.

#### Textual Amendments

**F128** Words in s. 19(1) inserted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 6, 8\(2\), Sch. 1 para. 24\(2\)](#)

**F129** Words in s. 19(3) inserted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 6, 8\(2\), Sch. 1 para. 24\(3\)](#)

**F130** Words in s. 19(4)(a) substituted (with effect for 2003-04 and subsequent tax years) by [National Insurance Contributions Act 2002 \(c. 19\), ss. 6, 8\(2\), Sch. 1 para. 24\(4\)](#)

**F131** S. 19(5A) inserted (1.4.1999) by S.I. 1999/671, art. 4, [Sch. 3 para. 19\(2\)](#) (with savings and transitional provisions in [Sch. 7](#)); S.R. 1999/149, art. 2(c), [Sch. 2](#) (subject to arts. 3-6)

**F132** Words in s. 19(6) substituted (1.4.1999) by S.I. 1999/671, art. 4, [Sch. 3 para. 19\(3\)](#) (with savings and transitional provisions in [Sch. 7](#)); S.R. 1999/149, art. 2(c), [Sch. 2](#) (subject to arts. 3-6)

#### [<sup>F133</sup>19A Class 1, 1A or 1B contributions paid in error.

- (1) This section applies where—
  - (a) payments by way of Class 1, Class 1A or Class 1B contributions are made in respect of earnings paid to or for the benefit of an earner (or in respect of a benefit made available to an earner) in 1998-99 or a subsequent tax year (“year 1”);
  - (b) the payments are made in error, in that the employment from which the earnings are derived (or by reason of which the benefit is made available) is not employed earner’s employment; and
  - (c) the person making the payments has not been notified of the error by the [<sup>F134</sup>Inland Revenue] before the end of the tax year following year 1 (“year 2”).
- (2) After the end of year 2 the earner shall, except in such circumstances as may be prescribed, be treated for all purposes relating to—
  - (a) contributions and contributory benefits; and
  - (b) statutory sick pay and statutory maternity pay,as if the earnings were derived from (or the benefit were made available by reason of) employed earner’s employment.

[ Regulations under subsection (2) above shall be made by the Treasury. ]  
<sup>F135</sup>(3)

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#### Textual Amendments

- F133** S. 19A inserted (10.3.1999 for specified purposes and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 51; S.R. 1999/102, art. 2(b), Sch. Pt. II
- F134** Words in s. 19A(1)(c) substituted (26.3.1999 for specified purposes and 1.4.1999 otherwise) by S.I. 1999/671, art. 24(2), Sch. 8 para. 2 (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(b)(c), Schs. 1, 2 (subject to arts. 3-6)
- F135** S. 19A(3) added (1.4.1999) by S.I. 1999/671, art. 4, Sch. 3 para. 20 (with savings and transitional provisions in Sch. 7); S.R. 1999/149, art. 2(c), Sch. 2 (subject to arts. 3-6)

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