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## SCHEDULES

### SCHEDULE 1 **N.I.**

Section 1(4).

#### SUPPLEMENTARY PROVISIONS RELATING TO CONTRIBUTIONS OF CLASSES 1, 1A, 2 AND 3

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

- 1 (1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—
- (a) all earnings paid to him or for his benefit in that week in respect of one or more employed earner's employments under the same employer shall, except as may be provided by regulations, be aggregated and treated as a single payment of earnings in respect of one such employment; and
  - (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employments shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment;
- and regulations may provide that the provisions of this sub-paragraph shall have effect in cases prescribed by the regulations as if for any reference to a week there were substituted a reference to a period prescribed by the regulations.
- (2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above and the aggregated earnings are not less than the current lower earnings limit, then, except as may be provided by regulations—
- (a) the amount of the primary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (3) below; and
  - (b) the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.
- [<sup>F1</sup>(3) The amount of the primary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—
- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 39(1) of the Pensions Act (contributions to personal pension schemes), the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings so attributable as does not exceed the current upper earnings limit (referred to in this paragraph as “the APPS earnings”);

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- (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service—
    - (i) to such part of the aggregated earnings attributable to COMPS service as does not exceed the current upper earnings limit; or
    - (ii) if paragraph (a) applies, to such part of the earnings attributable to COMPS service as, when added to the APPS earnings, does not exceed the current upper earnings limit;
  - (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service—
    - (i) to such part of the aggregated earnings attributable to COSRS service as does not exceed the current upper earnings limit; or
    - (ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), does not exceed the current upper earnings limit;
  - (d) the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, does not exceed the current upper earnings limit.]
- (4) In relation to earners paid otherwise than weekly, any reference in sub-paragraph (2) or (3) above to the lower or upper earnings limit shall be construed as a reference to the prescribed equivalent of that limit.
- (5) The power under sub-paragraph (4) above to prescribe an equivalent of a limit includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit.
- [<sup>F2</sup>(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—
- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 39(1) of the Pensions Act, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to the APPS earnings;
  - (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service to the part of the aggregated earnings attributable to such service;
  - (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to the part of the aggregated earnings attributable to such service;
  - (d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to

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employments which are not contracted-out to the remainder of the aggregated earnings.]

(7) Where any single payment of earnings is made in respect of two or more employed earner's employments under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.

(8) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary contributors concerned.

[<sup>F3</sup>(9) In this paragraph—

“COMPS service” means service in employment in respect of which minimum payments are made to a money purchase contracted-out scheme;

“COSRS service” means service in employment which qualifies the earner for a pension provided by a salary related contracted-out scheme.]

#### Textual Amendments

- F1** Sch. 1 para. 1(3) substituted (6.4.1996) by S.I. 1995/3213 (N.I. 22), arts. 132, 145(2); S.R. 1996/91, art. 2, Sch. Pt. III
- F2** Sch. 1 para. 1(6) substituted (6.4.1996) by S.I. 1995/3213 (N.I. 22), arts. 132, 145(3); S.R. 1996/91, art. 2, Sch. Pt. III
- F3** Sch. 1 para. 1(9) added (6.4.1996) by S.I. 1995/3213 (N.I. 22), arts. 132, 145(4); S.R. 1996/91, art. 2, Sch. Pt. III

#### *Earnings not paid at normal intervals*

- 2 Regulations may, for the purposes of Class 1 contributions, make provision as to the intervals at which payments of earnings are to be treated as made.

#### *Method of paying Class 1 contributions*

- 3 (1) Where earnings are paid to an employed earner and in respect of that payment liability arises for primary and secondary Class 1 contributions, the secondary contributor shall (except in prescribed circumstances), as well as being liable for his own secondary contribution, be liable in the first instance to pay also the earner's primary contribution, on behalf of and to the exclusion of the earner; and for the purposes of this Act and the Administration Act contributions paid by the secondary contributor on behalf of the earner shall be taken to be contributions paid by the earner.
- (2) Notwithstanding any contract to the contrary, no secondary contributor shall be entitled—
- (a) to make, from earnings paid by him, any deduction in respect of his own or any other person's secondary Class 1 contributions, or

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- (b) otherwise to recover such contributions from any earner to whom he pays earnings.
- (3) A secondary contributor shall be entitled, subject to and in accordance with regulations, to recover from an earner the amount of any primary Class 1 contribution paid or to be paid by him on behalf of the earner; [<sup>F4</sup>and, subject to sub-paragraph (4) below but notwithstanding any other provision in any enactment], regulations under this sub-paragraph shall provide for recovery to be made by deduction from the earner's earnings, and for it not to be made in any other way.
- [<sup>F5</sup>(4) Sub-paragraph (5) below applies in a case where—
- (a) a person (“the employee”) ceases in a particular tax year (“the cessation year”) to be employed by a particular employer (“the employer”); and
- (b) the employee receives from the employer in the cessation year, after the cessation of the employment, earnings in a form other than money (“non-monetary earnings”).
- (5) If and to the extent that regulations so provide, the employer may recover from the employee in such manner as may be prescribed any primary Class 1 contributions paid or to be paid by him on the employee's behalf in respect of—
- (a) the non-monetary earnings mentioned in sub-paragraph (4) above; or
- (b) any non-monetary earnings received by the employee from the employer in the cessation year before the cessation of the employment,
- which he was unable to recover by deduction from the employee's earnings.]

#### Textual Amendments

- F4** Words in [Sch. 1 para. 3\(3\)](#) substituted (9.9.1998) by [S.I. 1998/1506 \(N.I. 10\)](#), [art. 52\(a\)](#); [S.R. 1998/312](#), [art. 2\(a\)](#), [Sch. Pt. I](#)
- F5** [Sch. 1 para. 3\(4\)\(5\)](#) added (9.9.1998) by [S.I. 1998/1506 \(N.I. 10\)](#), [art. 52\(b\)](#); [S.R. 1998/312](#), [art. 2\(a\)](#), [Sch. Pt. I](#)

VALID FROM 28/07/2000

#### *[<sup>F6</sup> Prohibition on recovery of employer's contributions*

#### Textual Amendments

- F6** [Sch. 1](#): cross-headings and paras. 3A, 3B inserted (28.7.2000) by [2000 c. 19](#), [ss. 81\(2\)](#)

- <sup>F73A</sup> (1) Subject to sub-paragraph (2) below, a person who is or has been liable to pay any secondary Class 1 or any Class 1A or Class 1B contributions shall not—
- (a) make, from earnings paid by him, any deduction in respect of any such contributions for which he or any other person is or has been liable;
- (b) otherwise recover any such contributions (directly or indirectly) from any person who is or has been a relevant earner; or
- (c) enter into any agreement with any person for the making of any such deduction or otherwise for the purpose of so recovering any such contributions.

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- (2) Sub-paragraph (1) above does not apply to the extent that an agreement between—
- (a) a secondary contributor, and
  - (b) any person (“the earner”) in relation to whom the secondary contributor is, was or will be such a contributor in respect of the contributions to which the agreement relates,
- allows the secondary contributor to recover (whether by deduction or otherwise) the whole or any part of any secondary Class 1 contribution payable in respect of a gain that is treated as remuneration derived from that earner’s employment by virtue of section 4(4)(a) above.
- (3) Sub-paragraph (2) above does not authorise any recovery (whether by deduction or otherwise)—
- (a) in pursuance of any agreement entered into before 19th May 2000; or
  - (b) in respect of any liability to a contribution arising before the day of the passing of the Child Support, Pensions and Social Security Act 2000.
- (4) In this paragraph—
- “agreement” includes any arrangement or understanding (whether or not legally enforceable); and
  - “relevant earner”, in relation to a person who is or has been liable to pay any contributions, means an earner in respect of whom he is or has been so liable.]

#### Textual Amendments

F7 Sch. 1 paras. 3A, 3B inserted (28.7.2000) by 2000 c. 19, ss. 81(2)

VALID FROM 28/07/2000

#### *F8 Transfer of liability to be borne by earner*

#### Textual Amendments

F8 Sch. 1: cross-headings and paras. 3A, 3B inserted (28.7.2000) by 2000 c. 19, ss. 81(2)

- <sup>F9</sup>3B (1) This paragraph applies where—
- (a) an election is jointly made by—
    - (i) a secondary contributor, and
    - (ii) a person (“the earner”) in relation to whom the secondary contributor is or will be such a contributor in respect of contributions on share option gains by the earner,for the whole or a part of any liability of the secondary contributor to contributions on any such gains to be transferred to the earner; and
  - (b) the election is one in respect of which the Inland Revenue have, before it was made, given by notice to the secondary contributor their approval to both—
    - (i) the form of the election; and

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(ii) the arrangements made in relation to the proposed election for securing that the liability transferred by the election will be met.

(2) Any liability which—

- (a) arises while the election is in force, and
- (b) is a liability to pay the contributions on share option gains by the earner, or the part of them, to which the election relates,

shall be treated for the purposes of this Act, the Administration Act and Part III of the <sup>M1</sup>Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 as a liability falling on the earner, instead of on the secondary contributor.

(3) Subject to sub-paragraph (7)(b) below, an election made for the purposes of sub-paragraph (1) above shall continue in force from the time when it is made until whichever of the following first occurs, namely—

- (a) it ceases to have effect in accordance with its terms;
- (b) it is revoked jointly by both parties to the election;
- (c) notice is given to the earner by the secondary contributor terminating the effect of the election.

(4) An approval given to the secondary contributor for the purposes of sub-paragraph (1)(b) above may be given either—

- (a) for an election to be made by the secondary contributor and a particular person; or
- (b) for all elections to be made, or to be made in particular circumstances, by the secondary contributor and particular persons or by the secondary contributor and persons of a particular description.

(5) The grounds on which the Inland Revenue shall be entitled to refuse an approval for the purposes of sub-paragraph (1)(b) above shall include each of the following—

- (a) that it appears to the Inland Revenue that adequate arrangements have not been made for securing that the liabilities transferred by the proposed election or elections will be met by the person or persons to whom they would be so transferred; and
- (b) that it appears to the Inland Revenue that they do not have sufficient information to determine whether or not grounds falling within paragraph (a) above exist.

(6) If, at any time after they have given an approval for the purposes of sub-paragraph (1)(b) above, it appears to the Inland Revenue—

- (a) that the arrangements that were made or are in force for securing that liabilities transferred by elections to which the approval relates are met are proving inadequate or unsatisfactory in any respect, or
- (b) that any election to which the approval relates has resulted, or is likely to result, in the avoidance or non-payment of the whole or any part of any secondary Class 1 contributions,

the Inland Revenue may withdraw the approval by notice to the secondary contributor.

(7) The withdrawal by the Inland Revenue of any approval given for the purposes of sub-paragraph (1)(b) above—

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- (a) may be either general or confined to a particular election or to particular elections; and
  - (b) shall have the effect that the election to which the withdrawal relates has no effect on contributions on share option gains in respect of any right to acquire shares obtained after—
    - (i) the date on which notice of the withdrawal of the approval is given; or
    - (ii) such later date as the Inland Revenue may specify in that notice.
- (8) Where the Inland Revenue have refused or withdrawn their approval for the purposes of sub-paragraph (1)(b) above, the person who applied for it or, as the case may be, to whom it was given may appeal to the Special Commissioners against the Inland Revenue's decision.
- (9) On an appeal under sub-paragraph (8) above the Special Commissioners may—
- (a) dismiss the appeal;
  - (b) remit the decision appealed against to the Inland Revenue with a direction to make such decision as the Special Commissioners think fit; or
  - (c) in the case of a decision to withdraw an approval, quash that decision and direct that that decision is to be treated as never having been made.
- (10) Subject to sub-paragraph (12) below, an election under sub-paragraph (1) above shall not apply to any contributions in respect of gains realised before it was made.
- (11) Regulations made by the Inland Revenue may make provision with respect to the making of elections for the purposes of this paragraph and the giving of approvals for the purposes of sub-paragraph (1)(b) above; and any such regulations may, in particular—
- (a) prescribe the matters that must be contained in such an election;
  - (b) provide for the manner in which such an election is to be capable of being made and of being confined to particular liabilities or the part of particular liabilities; and
  - (c) provide for the making of applications for such approvals and for the manner in which those applications are to be dealt with.
- (12) Where—
- (a) an election is made under this paragraph before the end of the period of three months beginning with the date of the passing of the Child Support, Pensions and Social Security Act 2000, and
  - (b) that election is expressed to relate to liabilities for contributions arising on or after 19th May 2000 and before the making of the election, this paragraph shall have effect in relation to those liabilities as if sub-paragraph (2) above provided for them to be deemed to have fallen on the earner (instead of on the secondary contributor); and the secondary contributor shall accordingly be entitled to reimbursement from the earner for any payment made by that contributor in or towards the discharge of any of those liabilities.
- (13) In this paragraph references to contributions on share option gains by the earner are references to any secondary Class 1 contributions payable in respect of a gain that is treated as remuneration derived from the earner's employment by virtue of section 4(4)(a) above.

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(14) In this paragraph “the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts.

**Textual Amendments**

**F9** Sch. 1 paras. 3A, 3B inserted (28.7.2000) by 2000 c. 19, ss. 81(2)

**Marginal Citations**

**M1** S.I. 1999/671.

*General provisions as to Class 1 contributions*

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

*[<sup>F10</sup>Class 1A contributions]*

**Textual Amendments**

**F10** Cross-heading substituted (9.9.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), Sch. 6 para. 58(6); S.R. 1998/312, art. 2(a), Sch. Pt. I

- <sup>F115</sup> Regulations may—
- (a) make provision for calculating the amount of Class 1A contributions so as to avoid fractional amounts;
  - (b) modify section 10 above in relation to cases where a car is made available by reason of two or more employed earner’s employments under different employers.]



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#### Textual Amendments

- F11** Sch. 1 para. 5 substituted (9.9.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 58(6)**; S.R. 1998/312, art. 2(a), **Sch. Pt. I**

*[<sup>F12</sup>Class 1B contributions]*

#### Textual Amendments

- F12** Cross-heading inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(7)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**

- <sup>F13</sup>5A Regulations may make provision for calculating the amount of Class 1B contributions so as to avoid fractional amounts.

#### Textual Amendments

- F13** Sch. 1 para. 5A inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(7)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**

*Power to combine collection of contributions with tax*

- 6 (1) Regulations made with the concurrence of the Inland Revenue may—
- <sup>F14</sup>(a) provide for Class 1, Class 1A, Class 1B or Class 2 contributions to be paid, accounted for and recovered in a similar manner to income tax in relation to which regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE) have effect;
  - (b) apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of regulations under that section;
  - (c) make provision for the appropriation of the payments made by any person between his liabilities in respect of income tax and contributions.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be made by virtue of paragraph (a) of that sub-paragraph includes in relation to Class 1 [<sup>F15</sup>, Class 1A or Class 1B]contributions—
- (a) provision for requiring the payment of interest on sums due in respect of Class 1 or Class 1A contributions which are not paid by the due date, for determining the date (being, in the case of Class 1 contributions, not less than 14 days after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
  - (b) provision for requiring the payment of interest on sums due in respect of Class 1 or Class 1A contributions which fall to be repaid and for determining

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the date [<sup>F16</sup>(being not less than one year after the end of the tax year in respect of which the sums are due)] from which such interest is to be calculated;

(c) provision for, or in connection with, the imposition and recovery of penalties in relation to any returns required to be made which relate to Class 1 or Class 1A contributions, but subject to sub-paragraph (7) and paragraph 7 below; and any reference to contributions or income tax in paragraph (b) or (c) of sub-paragraph (1) above shall be construed as including a reference to any interest or penalty in respect of contributions or income tax, as the case may be.

(3) The rate of interest applicable for any purpose of this paragraph shall be—

- (a) the rate from time to time prescribed for that purpose under section 178 of the <sup>M2</sup>Finance Act 1989 for the purpose of any enactment (whether or not extending to Northern Ireland) if prescribed by regulations made by virtue of this paragraph; or
- (b) such other rate as may be prescribed by such regulations.

(4) Regulations under this paragraph may require the payment of interest on sums due in respect of contributions, notwithstanding that a question arising in relation to the contributions has not been determined under section 15 of the Administration Act by the Department, except that where—

- (a) any such question arises which affects a person’s liability for, or the amount of, any such interest, and
- (b) either—
  - (i) that person requires the question to be determined under section 15, or
  - (ii) a question of law arising in connection with the determination of the question is, or is to be, referred to the Court of Appeal under section 16 of the Administration Act,

the regulations shall not require the payment of any such interest until the question has been determined under section 15 of the Administration Act by the Department or the reference has been finally disposed of under section 16 of that Act, as the case may be; but, subject to that, this paragraph is without prejudice to sections 15 to 17 of the Administration Act.

[<sup>F17</sup>(4A) Regulations under this paragraph shall not require the payment of interest on a sum due in respect of a Class 1B contribution if a relevant tax appeal has been brought but not finally determined; and “a relevant tax appeal” means an appeal against a determination as to the amount of income tax in respect of which the person liable to pay the Class 1B contribution is accountable in accordance with the relevant PAYE settlement agreement.]

(5) The power to make regulations under this paragraph includes power to make such provision as the Department considers expedient in consequence of any provision made by or under [<sup>F18</sup>section 155A] or 163 above.

(6) Provision made in regulations under this paragraph, by virtue of sub-paragraph (5) above, may in particular require the inclusion—

- (a) in returns, certificates and other documents; or
- (b) in any other form of record;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating to statutory sick pay, statutory maternity

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pay or deductions or payments made by virtue of section 163(1) above as may be prescribed by those regulations.

- (7) Section 98 of the <sup>M3</sup>Taxes Management Act 1970 shall apply in relation to regulations made by virtue of this paragraph as it applies in relation to regulations made under section 203 of the <sup>M4</sup>Income and Corporation Taxes Act 1988 (PAYE).
- (8) The Inland Revenue shall, at such times and in such manner as the Department of Finance and Personnel may direct, account to the Department for, and pay to it—
- (a) the sums estimated by the Inland Revenue, in such manner as may be so directed, to have been received by them as contributions in accordance with regulations made by virtue of this paragraph; and
  - (b) so much of any interest recovered by the Inland Revenue by virtue of this paragraph as remains after the deduction by them of any administrative costs attributable to its recovery.

#### Textual Amendments

- F14** Sch. 1 para. 6(1)(a) substituted (9.9.1998 for the purpose only of making regulations or orders and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(8)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F15** Words in Sch. 1 para. 6(2) substituted (9.9.1998 for the purpose only of making regulations or orders and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(9)(a)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F16** Words in Sch. 1 para. 6(2)(b) ceased to have effect (9.9.1998 for the purpose only of making regulations or orders and 6.4.1999 otherwise) and repealed (6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1)(2), Sch. 6 para. 58(9)(b), **Sch. 7**; S.R. 1998/312, art. 2(b)(d), Sch. Pts. II, **III**
- F17** Sch. 1 para. 6(4A) inserted (9.9.1998 for the purpose only of making regulations or orders and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(11)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F18** Words in Sch. 1 para. 6(5) substituted (6.4.1995) by S.R. 1995/69, **art. 6(1)(b)**

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

- C1** Sch. 1 para. 6(3)(a) applied (19.4.1993) by S.R. 1979/186, **regs. 28A(1), 28B(1)** (as inserted (19.4.1993) by S.R. 1993/130, **reg. 2**)

#### Marginal Citations

- M2** 1989 c. 26.  
**M3** 1970 c. 9.  
**M4** 1988 c. 1.

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

- 7 (1) This paragraph applies where regulations under paragraph 6 above make provision requiring any return which is to be made in accordance with a specified provision of regulations under that paragraph (the “contributions return”) to be made—
- (a) at the same time as any specified return required to be made in accordance with a provision of regulations made by the Inland Revenue under section 203(2) (PAYE) or 566(1) (sub-contractors) of the <sup>M5</sup>Income

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and Corporation Taxes Act 1988 to which section 98A of the <sup>M6</sup>Taxes Management Act 1970 applies (the “tax return”); or

- (b) if the circumstances are such that the return mentioned in paragraph (a) above does not fall to be made, at a time defined by reference to the time for making that return, had it fallen to be made;

and, in a case falling within paragraph (b) above, any reference in the following provisions of this paragraph to the tax return shall be construed as a reference to the return there mentioned.

- (2) Where this paragraph applies, regulations under paragraph 6 above may provide that section 98A of the <sup>M7</sup>Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns) shall apply in relation to any specified provision of regulations in accordance with which the contributions return is required to be made; and where they so provide then, subject to the following provisions of this paragraph—

- (a) that section shall apply in relation to the contributions return as it applies in relation to the tax return; and
- (b) sections 100 to 100D and 102 to 104 of that Act shall apply in relation to a penalty under section 98A of that Act to which a person is liable by virtue of this sub-paragraph as they apply in relation to any other penalty under that section.

- (3) Where a person is liable to a penalty under paragraph (a) of subsection (2) of section 98A of that Act (first 12 months’ default) in consequence of a failure in respect of a tax return, he shall not also be liable to a penalty under that paragraph in respect of any failure in respect of the associated contributions return.

- (4) In any case where—

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

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

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

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

- (6) So much of any single penalty imposed by virtue of sub-paragraph (4) above as is recovered by the Inland Revenue shall, after the deduction of any administrative costs of the Inland Revenue attributable to its recovery, be apportioned between the Inland Revenue and the Department in the ratio T:C, where—

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

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

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- (7) The Inland Revenue shall, at such times and in such manner as the Department of Finance and Personnel may direct, account to the Department for, and pay to it—
- (a) the amounts apportioned to the Department under sub-paragraph (6) above in respect of such penalties as are there mentioned; and
  - (b) so much of any penalty otherwise imposed by virtue of this paragraph and recovered by the Inland Revenue as remains after the deduction by them of any administrative costs attributable to its recovery.
- (8) Sub-paragraphs (6) and (7) above shall have effect notwithstanding any provision which treats a penalty under section 98A of that Act as if it were tax charged in an assessment and due and payable.
- (9) In the application of section 98A of that Act by virtue of this paragraph, any reference to a year of assessment shall be construed, in relation to a contributions return, as a reference to the tax year corresponding to that year of assessment.
- (10) In the application of section 100D of that Act (court proceedings for penalties in cases of fraud) by virtue of this paragraph—
- (a) subsection (2) shall have effect with the omission of the words “England, Wales or” and paragraphs (a) and (b); and
  - (b) subsection (3) shall have effect with the omission of the words from “instituted in England and Wales” to “and any such proceedings” and the substitution for “that Part of that Act” of “Part II of the Crown Proceedings Act 1947”.
- (11) In the application of section 103 of that Act (time limit for recovery) by virtue of this paragraph—
- (a) any reference in subsection (1) to tax shall be taken to include a reference to Class 1 and Class 1A contributions;
  - (b) any penalty by virtue of sub-paragraph (4) above shall be regarded as a penalty in respect of the tax return in question; and
  - (c) where, by virtue of subsection (2) (death), subsection (1)(b) does not apply in relation to a penalty under section 98A(2)(b) or (4) of that Act in respect of a tax return, it shall also not apply in relation to a penalty so imposed in respect of the associated contributions return.
- (12) A penalty under section 98A of that Act as it applies by virtue of this paragraph may be imposed notwithstanding that a question arising in relation to contributions has not been determined under section 15 of the Administration Act by the Department except that where—
- (a) any such question arises which affects a person’s liability for, or the amount of, the penalty, and
  - (b) either—
    - (i) that person requires the question to be determined under section 15, or
    - (ii) a question of law arising in connection with the determination of the question is, or is to be, referred to the Court of Appeal under section 16 of the Administration Act,the penalty shall not be imposed until the question has been determined under section 15 of the Administration Act by the Department or the reference has been finally disposed of under section 16 of that Act, as the case may be; but, subject to

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that, this paragraph is without prejudice to sections 15 to 17 of the Administration Act.

- (13) For the purposes of this paragraph—
- (a) “contributions return” and “tax return” shall be construed in accordance with sub-paragraph (1) above; and
  - (b) a contributions return and a tax return are “associated” if the contributions return is required to be made—
    - (i) at the same time as the tax return, or
    - (ii) where sub-paragraph (1)(b) above applies, at a time defined by reference to the time for making the tax return.

#### Marginal Citations

- M5** 1988 c. 1.
- M6** 1970 c. 9.
- M7** 1970 c. 9.

[<sup>F19</sup>7A (1) This paragraph applies where paragraph 7 above applies; and in this paragraph “contributions return” has the same meaning as in that paragraph.

- (2) Without prejudice to paragraph 7(2) above or to the powers of the Inland Revenue to penalise omissions or errors in returns, regulations may provide for the Department to impose penalties in respect of a person who, in making a contributions return, fraudulently or negligently—
- (a) fails to provide any information or computation that he is required to provide; or
  - (b) provides any such information or computation that is incorrect.
- (3) Regulations under sub-paragraph (2) above shall—
- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
  - (b) provide for the penalty to be imposed by the Department within 6 years after the date on which the penalty is incurred;
  - (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
  - (d) prescribe the means by which the penalty is to be enforced; and
  - (e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.]

#### Textual Amendments

- F19** Sch. 1 para. 7A inserted (10.3.1999 for specified purposes and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 53(2); S.R. 1999/102, art. 2(b), Sch. Pt. II

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*[<sup>F20</sup>Collection of contributions by the Department]*

**Textual Amendments**

**F20** Sch. 1: Cross-heading and para. 7B inserted (10.3.1999 for specified purposes and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 54; S.R. 1999/102, art. 2(b), Sch. Pt. II

- <sup>F21</sup>7B (1) Regulations may provide that, in such cases or circumstances as may be prescribed—
- (a) contributions payable under Part I of this Act shall be paid to the Department (and not to the Inland Revenue); and
  - (b) the Department shall be responsible for the collection of such contributions, and generally for the relevant administration.
- (2) Regulations under this paragraph may, in particular—
- (a) provide for returns to be made to the Department by such date as may be prescribed;
  - (b) prescribe the form in which returns are to be made, or provide for returns to be made in such form as the Department may approve;
  - (c) prescribe the manner in which contributions are to be paid, or provide for contributions to be paid in such manner as the Department may approve;
  - (d) prescribe the due date for the payment of contributions;
  - (e) subject to sub-paragraph (4) below, provide for interest to be charged by the Department on contributions that are not paid by the due date, and for enabling such interest to be remitted or repaid;
  - (f) provide for interest to be paid on contributions that fall to be repaid;
  - (g) provide for determining the date from which interest to be charged or paid pursuant to regulations under paragraph (e) or (f) above is to be calculated;
  - (h) provide for penalties to be imposed in respect of a person who—
    - (i) fails to submit, within the time allowed, a return required to be made in accordance with regulations under paragraph (a) above;
    - (ii) in making such a return, fraudulently or negligently fails to provide any information or computation that he is required to provide;
    - (iii) in making such a return, fraudulently or negligently provides any incorrect information or computation; or
    - (iv) fails to pay Class 2 contributions by the due date;
  - (i) provide for a penalty imposed pursuant to regulations under paragraph (h) above to carry interest from the date on which it becomes payable until payment.
- (3) Where—
- (a) a decision relating to contributions falls to be made under Article 9, 10, 11, 13 or 15 of the Social Security (Northern Ireland) Order 1998 or section 22 of the Administration Act; and
  - (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,
- regulations under sub-paragraph (2)(e) above shall not require any such interest to be paid until the decision has been made.

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- (4) Regulations under sub-paragraph (2)(e) above may provide that, in such cases or circumstances as may be prescribed, interest under those regulations may be charged by the Inland Revenue (instead of the Department) as if the regulations were made by virtue of paragraph 6 above.
- (5) Regulations under sub-paragraph (2)(h) above shall—
- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
  - (b) subject to sub-paragraph (6) below, provide for the penalty to be imposed by the Department—
    - (i) within 6 years after the date on which the penalty is incurred; or
    - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;
  - (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
  - (d) prescribe the means by which the penalty is to be enforced; and
  - (e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.
- (6) Regulations under sub-paragraph (2)(h)(ii) or (iii) above may provide that, in such cases or circumstances as may be prescribed, penalties under those regulations may be imposed by the Inland Revenue (instead of the Department) as if the return in question were a contributions return within the meaning of paragraph 7 above.
- (7) Section 12 above shall not apply in relation to Class 2 contributions in respect of which the Department charges interest or imposes a penalty pursuant to regulations under paragraph (e) or (h) of sub-paragraph (2) above.
- (8) Interest or penalties may be charged by virtue of regulations under this paragraph in respect of a period before the coming into operation of Article 54 of the Social Security (Northern Ireland) Order 1998 but only to the extent that interest or penalties would have been chargeable if the contributions in question had been recoverable, in respect of that period, by virtue of regulations under paragraph 6 above.
- (9) Any reference to contributions in sub-paragraph (1) above shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of sub-paragraph (2) above.
- (10) The rate of interest applicable for any purpose of this paragraph shall be—
- (a) the rate from time to time prescribed under section 178 of the Finance Act 1989 for the purpose of any enactment (whether or not extending to Northern Ireland) if prescribed by regulations made by virtue of this paragraph; or
  - (b) such other rate as may be prescribed by such regulations.]

#### Textual Amendments

**F21** Sch. 1 para. 7B inserted (10.3.1999 for specified purposes and 6.4.1999 otherwise) by S.I. 1998/1506 (N.I. 10), art. 54; S.R. 1999/102, art. 2(b), Sch. Pt. II



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VALID FROM 28/07/2000

[<sup>F22</sup>7BA The Inland Revenue may by regulations provide for amounts in respect of contributions or interest that fall to be paid or repaid in accordance with any regulations under this Schedule to be set off, or to be capable of being set off, in prescribed circumstances and to the prescribed extent, against any such liabilities under regulations under this Schedule of the person entitled to the payment or repayment as may be prescribed.]

#### Textual Amendments

**F22** Sch. 1 para. 7BA inserted (28.7.2000) by 2000 c. 19, s. 80(5)

[<sup>F23</sup>Interest and penalties chargeable concurrently with Inland Revenue]

#### Textual Amendments

**F23** Sch. 1: cross-heading and para. 7C inserted (*prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 55 (which inserting article was repealed (1.4.1999) by S.I. 1999/671, art. 24(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))

- [<sup>F24</sup>7C (1) Any interest or penalty chargeable by the Inland Revenue by virtue of regulations under paragraph 6 or 7 above may also be charged by the Department.
- (2) To the extent that any interest or penalty is recovered by the Department by virtue of sub-paragraph (1) above, or by virtue of regulations under paragraph 7B above, it shall not be recoverable by the Inland Revenue by virtue of regulations under paragraph 6 or 7 above, and vice versa.
- (3) To the extent that any penalty is recovered by the Department by virtue of regulations under paragraph 7A above, it shall not be recoverable by the Inland Revenue by virtue of regulations under paragraph 7 above, and vice versa.]

#### Textual Amendments

**F24** Sch. 1 para. 7C inserted (*prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 55

*General regulation - making powers*

- 8 (1) Regulations may provide—
- (a) for requiring persons to maintain, in such form and manner as may be prescribed, records—
- (i) of the earnings paid by them to and in respect of earners, and
- (ii) of the contributions paid or payable in respect of earnings so paid,

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- for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed;
- (b) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for the purpose of enabling the incidence of liability for Class 1A [<sup>F25</sup>or Class 1B] contributions to be determined, and to retain the records for so long as may be prescribed;
  - (c) for treating primary Class 1 contributions, when payable on the primary contributor's behalf by the secondary contributor, but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary contributor and, in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period;
  - (d) for treating, for the purpose of any entitlement to benefit, contributions paid at or after any prescribed time as paid at some other time (whether earlier or later) or, in the case of contributions paid after the due date for payment, or at such later date as may be prescribed, as not having been paid;
  - (e) for enabling contributions to be treated as paid in respect of a tax year earlier or later than that in respect of which they were actually paid;
  - (f) for treating (for the purposes of Class 2 contributions) a week which falls partly in one, and partly in another, tax year as falling wholly within one or the other of those tax years;
  - (g) for treating contributions of the wrong class, or at the wrong rate, or of the wrong amount, as paid on account of contributions properly payable (notwithstanding section 14 above, in the case of Class 3 contributions) or as paid (wholly or in part) in discharge of a liability for a [<sup>F26</sup>contributions equivalent] premium;
  - (h) for the repayment, in prescribed cases, of the whole or a prescribed part of any contributions paid by reference to earnings which have become repayable;
  - (i) for the repayment, in prescribed cases, of a prescribed part of any Class 1A contribution as to which the Department is satisfied in the light of information of a kind mentioned in section 10(6)(a), (b) or (c) above that has become available to it, that too much has been paid;
    - [<sup>F27</sup>(ia) for the repayment, in prescribed cases, of the whole or a prescribed part of a Class 1B contribution;]
  - (j) for the repayment, on the making of an application in the prescribed manner and within the prescribed time, of Class 2 contributions paid by a person in respect of a period which consists of, or falls within, a tax year for which his earnings from employment as a self-employed earner were, or were such as to be treated by regulations under subsection (4) of section 11 above as being, at a lower rate than the one specified in that subsection for that year;
  - (k) for excepting a person from liability for contributions repaid by virtue of paragraph (j) above, to the extent that he would not have been so excepted by virtue of section 11(4) above;
  - (l) without prejudice to paragraph (g) above, for enabling—
    - (i) the whole or part of any payment of secondary Class 1 contributions to be treated as a payment of Class 1A contributions [<sup>F28</sup>or a Class 1B contribution];

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- (ii) the whole or part of any payment of Class 1A contributions to be treated as a payment of secondary Class 1 contributions [<sup>F29</sup>, a Class 1B contribution] or Class 2 contributions;
  - <sup>F30</sup>(ia) the whole or part of any payment of a Class 1B contribution to be treated as a payment of secondary Class 1 contributions, Class 1A contributions or Class 2 contributions;
  - (iii) the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions [<sup>F31</sup>, Class 1A contributions or a Class 1B contribution];
  - (m) for the return of the whole or any prescribed part of any contributions paid either in error or in such circumstances that, under any provision of Part I of this Act or of regulations, they fall to be repaid;
  - (n) for treating a person as being an employed earner, notwithstanding that his employment is outside Northern Ireland;
  - (o) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed;
  - <sup>F32</sup>(p) .....
  - (q) for any other matters incidental to the payment, collection or return of contributions.
- (2) Regulations made by the Department under sub-paragraph (1) above providing for the payment of Class 2 or Class 3 contributions (at the option of the persons liable to pay) either—
- (a) by means of adhesive stamps; or
  - (b) by some alternative method, the use of which involves greater expense in administration to the government departments concerned than would be incurred if the contributions were paid by means of such stamps,
- may include provision for the payment to the Department by any person who adopts any alternative method, and for the recovery by the Department, of the prescribed fees in respect of any difference in the expense in administration.
- (3) Where under regulations made by virtue of sub-paragraph (1) above contributions are payable by means of adhesive stamps, the Department—
- (a) may, with the consent of the Department of Finance and Personnel, arrange for the preparation and sale of those stamps, and
  - (b) may by regulations provide for applying, with the necessary modifications as respects those stamps, all or any of the provisions of the <sup>M8</sup>Stamp Duties Management Act 1891, section 9 of the <sup>M9</sup>Stamp Act 1891 and section 63 of the <sup>M10</sup>Post Office Act 1953.

#### Textual Amendments

- F25** Words in Sch. 1 para. 8(1)(b) inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1), Sch. 6 para. 58(14); S.R. 1998/312, art. 2(b), Sch. Pt. II
- F26** Words in Sch. 1 para. 8(1)(g) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 11; S.R. 1997/192, art. 2 (with transitional adaptations, modification and savings in arts. 3-13)

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- F27** Sch. 1 para. 8(1)(ia) inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(14)(15)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F28** Words in Sch. 1 para. 8(1)(i) inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(16)(a)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F29** Words in Sch. 1 para. 8(1)(ii) inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(16)(b)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F30** Sch. 1 para. 8(1)(iia) inserted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(16)(c)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F31** Words in Sch. 1 para. 8(1)(iii) substituted (9.9.1998 for the purpose only of making regulations or orders and for all other purposes on 6.4.1999) by virtue of S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 58(16)(d)**; S.R. 1998/312, art. 2(b), **Sch. Pt. II**
- F32** Sch. 1 para. 8(1)(p) repealed (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 19(2), **Sch. 2**; S.R. 1997/316, art. 2, **Sch.**

#### Marginal Citations

- M8** 1891 c. 38.  
**M9** 1891 c. 39.  
**M10** 1953 c. 36.

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

#### *Sickness payments counting as remuneration*

- 10 (1) Regulations may make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 4(1) above, is to be treated as remuneration derived from employed earner's employment is to be made.
- (2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the [<sup>F33</sup>Friendly Societies Act 1974]) to make amendments to its rules, the amendments may, notwithstanding any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the [<sup>F33</sup>Chief Registrar of Friendly Societies] for the purposes of this paragraph.
- [<sup>F34</sup>(3) The power conferred by sub-paragraph (2) above on the Chief Registrar of Friendly Societies to make regulations shall be exercisable by statutory instrument, and—
- (a) the Statutory Instruments Act 1946 shall apply to that power as if the Chief Registrar were a Minister of the Crown, and

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*Status: Point in time view as at 10/03/1999. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Social Security Contributions and Benefits (Northern Ireland) Act 1992, SCHEDULE 1 is up to date with all changes known to be in force on or before 23 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)*

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- (b) section 171(3) to (5) above shall apply to those regulations as they apply to regulations made by the Department.]

**Textual Amendments**

- F33** Words in Sch. 1 para. 10(2) substituted (1.1.1994) by Friendly Societies Act 1992 (c. 40), s. 120(1), **Sch. 21 Pt. I para. 19(1)(a)(b)**; S.I. 1993/3226, art. 2(1), **Sch.2**
- F34** Sch. 1 para. 10(3) substituted (1.1.1994) by Friendly Societies Act 1992 (c. 40), s. 120(1), **Sch. 21 Pt. I para. 19(2)**; S.I. 1993/3226, art. 2(1), **Sch.2**

**Status:**

Point in time view as at 10/03/1999. This version of this schedule contains provisions that are not valid for this point in time.

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