

*These notes refer to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) which received Royal Assent on 25 February 1999*

# **SOCIAL SECURITY CONTRIBUTIONS (TRANSFER OF FUNCTIONS, ETC.) ACT 1999**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part I**

#### *Section 4 and Schedule 4: powers of recovery*

103. *Section 4* and Schedule 4 concern methods of enforcing the recovery of unpaid contributions. They enable summary proceedings to be taken in the magistrates' courts in the same way and to the same extent as they can for tax debts. They also permit authorised officers of the Board who are not lawyers to appear in proceedings in the county courts (in England, Wales and Northern Ireland) and in the sheriff court in Scotland.
104. These provisions do not apply to contributions which should at present be paid to the Inland Revenue along with tax. The recovery of those contributions is already aligned with the tax rules.

#### **Details**

105. *Section 4* provides that Schedule 4 has effect for the recovery of contributions (plus related interest or penalties) which fall into defined categories. As noted above, the contributions affected are those which are *not* already payable to the Collector of Taxes along with income tax. They include Class 1A contributions (on employees' car benefits) where an employer opts to pay them outside the arrangements for Class 1 contributions which run alongside the PAYE tax system and Class 2 contributions (the flat rate contributions paid by the self-employed).
106. *Paragraph 1* of Schedule 4 defines an 'authorised officer' as one authorised by the Board (of Inland Revenue) for the purposes of the provision in the Schedule where the expression occurs.
107. *Paragraph 2* sets out the rules for recovering contributions in a magistrates' court. These are modelled closely on section 65 of the TMA which sets out the equivalent provisions for tax.
108. *Paragraph 2(1)* provides that an amount of contributions, or interest or penalties on those contributions, is recoverable by summary proceedings as a civil debt so long as the amount does not exceed the 'prescribed sum'. That sum is defined in *Paragraph 2(5)* as the sum specified for the purposes of the equivalent tax provision (currently £2,000).
109. *Paragraph 2(2)* enables more than one amount of contributions to be recovered by way of the same legal document and that an error in respect of one such amount does not prejudice the claim in respect of the others.

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110. *Paragraph 2(3)* provides for the time by which proceedings must be commenced. Generally, that is not later than the first anniversary of the date on which the contributions, interest or penalties in question fell due. But for Class 2 contributions that date is the last day of the tax year (ending on 5 April) following that in which the contributions and related interest or penalties fell due.
111. *Paragraph 2(4)* modifies paragraph 2(1) in its application to Northern Ireland.
112. *Paragraph 3* makes provision about the recovery of contributions, interest and penalties in proceedings in the county courts.
113. *Paragraph 3(1)* enables any sum due by way of contributions, interest or penalties to be recovered in the county courts in England, Wales and Northern Ireland by proceedings commenced in the name of an authorised officer.
114. *Paragraph 3(2)* provides expressly that those proceedings may be conducted in England and Wales by an authorised officer who is not a barrister or solicitor.
115. *Paragraph 3(3) and (4)* provides for the application of paragraph 3 in Northern Ireland.
116. *Paragraph 4* makes in relation to Scotland provision which is equivalent to that in paragraph 3.
117. *Paragraph 5* ensures that Class 1 and 1A contributions, or related interest or penalties, can be recovered without distinguishing the amounts due in respect of particular employees.