



Social Security Contributions (Transfer of Functions, etc.) Act 1999

1999 CHAPTER 2

PART II

DECISIONS AND APPEALS

Modifications etc. (not altering text)

- C1** Pt. II (ss. 8-19) applied (1.4.1999) by 1992 c. 5, s. 117A(3) (as added (1.4.1999) by 1999 c. 2, s. 18, Sch. 7 para. 13; S.I. 1999/527, art. 2(b), Sch. 2)
- Pt. II (ss. 8-19) extended (1.4.1999) by 1996 c. 18, s. 215(5) (as substituted (1.4.1999) by 1999 c. 2, s. 18, Sch. 7 para. 21; S.I. 1999/527, art. 2(b), Sch. 2)
- Pt. II (ss. 8-19) excluded (3.3.1999) by S.I. 1999/527, art. 4(6)
- Pt II modified (28.7.2000) 1992 c. 2, Sch. 1 para. 3B(2) (as inserted (28.7.2000) by 2000 c. 19, ss. 77(2), 86(1) (with s. 83(6))
- Pt 2 modified (22.3.2011) by National Insurance Contributions Act 2011 (c. 3), ss. 8(6)(a), 13(2)

8 Decisions by officers of Board.

- (1) Subject to the provisions of this Part, it shall be for an officer of the Board—
- to decide whether for the purposes of Parts I to V of the ^{M1}Social Security Contributions and Benefits Act 1992 a person is or was an earner and, if so, the category of earners in which he is or was to be included,
 - to decide whether a person is or was employed in employed earner's employment for the purposes of Part V of the Social Security Contributions and Benefits Act 1992 (industrial injuries),
 - to decide whether a person is or was liable to pay contributions of any particular class and, if so, the amount that he is or was liable to pay,
 - to decide whether a person is or was entitled to pay contributions of any particular class that he is or was not liable to pay and, if so, the amount that he is or was entitled to pay,

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- (e) to decide whether contributions of a particular class have been paid in respect of any period,
 - (f) subject to and in accordance with regulations made for the purposes of this paragraph by the Secretary of State with the concurrence of the Board, to decide any issue arising as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay,
 - (g) to make any other decision that falls to be made under Part XI of the Social Security Contributions and Benefits Act 1992 (statutory sick pay) or Part XII of that Act (statutory maternity pay),
 - (h) to decide any question as to the issue and content of a notice under subsection (2) of section 121C of the ^{M2}Social Security Administration Act 1992 (liability of directors etc. for company's contributions),
 - (i) to decide any issue arising under section 27 of the ^{M3}Jobseekers Act 1995 (employment of long-term unemployed: deductions by employers), or under any provision of regulations under that section, as to—
 - (i) whether a person is or was an employee or employer of another,
 - (ii) whether an employer is or was entitled to make any deduction from his contributions payments in accordance with regulations under section 27 of that Act,
 - (iii) whether a payment falls to be made to an employer in accordance with those regulations,
 - (iv) the amount that falls to be so deducted or paid, or
 - (v) whether two or more employers are, by virtue of regulations under section 27 of that Act, to be treated as one,
 - (j) to decide whether a person is liable to pay interest under paragraph 7B(2)(e) of Schedule 1 to the Social Security Contributions and Benefits Act 1992,
 - (k) to decide whether a person is liable to a penalty under—
 - (i) paragraph 7A(2) or 7B(2)(h) of Schedule 1 to the ^{M4}Social Security Contributions and Benefits Act 1992, or
 - (ii) section 113(1)(a) of the ^{M5}Social Security Administration Act 1992,
 - (l) to decide the amount of interest or penalty payable under any of the provisions mentioned in paragraphs (j) and (k) above, and
 - (m) to decide such issues relating to contributions, other than the issues specified in paragraphs (a) to (l) above or in paragraphs 16 and 17 of Schedule 3 to the ^{M6}Social Security Act 1998, as may be prescribed by regulations made by the Board.
- (2) Subsection (1)(c) and (e) above do not include any decision relating to Class 4 contributions other than a decision falling to be made—
- (a) under subsection (1) of section 17 of the Social Security Contributions and Benefits Act 1992 as to whether by regulations under that subsection a person is or was excepted from liability for Class 4 contributions, or his liability is or was deferred, or
 - (b) under regulations made by virtue of subsection (3) or (4) of that section or section 18 of that Act.
- (3) Subsection (1)(g) above does not include—
- (a) any decision as to the making of subordinate legislation, or
 - (b) any decision as to whether the liability to pay statutory sick pay or statutory maternity pay is a liability of the Board rather than the employer.

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- (4) Until the commencement of section 2 of this Act, the reference in subsection (1)(m) above to the Board shall have effect as a reference to the Secretary of State.

Commencement Information

- I1** S. 8 wholly in force at 6.4.1999 (subject to art. 4(1)(b) of the commencing S.I.); s. 8 in force for certain purposes at 25.2.1999 see s. 28(2)(b); s. 8 in force for certain purposes at 1.4.1999 by S.I. 1999/527, art. 2(b), Sch. 2; and in force at 6.4.1999 in so far as not already in force by S.I. 1999/527, art. 2(c), Sch. 3

Marginal Citations

- M1** 1992 c. 4.
M2 1992 c. 5.
M3 1995 c. 18.
M4 1992 c. 4.
M5 1992 c. 5.
M6 1998 c. 14.

9 Regulations with respect to decisions.

- (1) Subject to the provisions of this Part and of the Social Security Administration Act 1992, provision may be made by the Board by regulations as to the making by their officer of any decision under or in connection with the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 or the ^{M7}Jobseekers Act 1995 which falls to be made by such an officer.
- (2) Where it appears to an officer of the Board that a matter before him involves a question of fact requiring special expertise, he may direct that in dealing with that matter he shall have the assistance of one or more experts.
- (3) In subsection (2) above “expert” means a person appearing to the officer of the Board to have knowledge or experience which would be relevant in determining the question of fact requiring special expertise.

Commencement Information

- I2** S. 9 wholly in force at 1.4.1999; s. 9 in force for certain purposes at Royal Assent see s. 28(2)(b) and in force at 1.4.1999 insofar as not already in force by S.I. 1999/527, art. 2(b), Sch. 2

Marginal Citations

- M7** 1995 c. 18.

10 Decisions varying or superseding earlier decisions.

- (1) The Board may by regulations make provision—
- for any decision of an officer of the Board under section 8 of this Act (including a decision superseding an earlier decision) to be varied either within the prescribed period or in prescribed cases or circumstances,
 - for any such decision to be superseded, in prescribed circumstances, by a subsequent decision made by an officer of the Board, and

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- (c) for any such decision as confirmed or varied by the tax appeal Commissioners on appeal to be superseded, in the event of a material change of circumstances since the decision was made, by a subsequent decision made by an officer of the Board.
- (2) The date as from which—
 - (a) any variation of a decision, or
 - (b) any decision superseding an earlier decision,
 is to take effect shall be determined in accordance with the regulations.
- (3) In this section “prescribed” means prescribed by regulations under this section.

Commencement Information

- I3** S. 10 wholly in force at 1.4.1999; s. 10 in force for certain purposes at Royal Assent see s. 28(2)(b) and in force at 1.4.1999 insofar as not already in force by S.I. 1999/527, art. 2(b), Sch. 2

11 Appeals against decisions of Board.

- (1) This section applies to any decision of an officer of the Board under section 8 of this Act or under regulations made by virtue of section 10(1)(b) or (c) of this Act (whether as originally made or as varied under regulations made by virtue of section 10(1)(a) of this Act).
- (2) In the case of a decision to which this section applies—
 - (a) if it relates to a person’s entitlement to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to the tax appeal Commissioners, and
 - (b) in any other case, the person in respect of whom the decision is made and such other person as may be prescribed shall have a right to appeal to the tax appeal Commissioners.
- (3) In subsection (2)(b) above “prescribed” means prescribed by the Board by regulations.
- (4) This section has effect subject to section 121D of the ^{M8}Social Security Administration Act 1992 (appeals in relation to personal liability notices).

Commencement Information

- I4** S. 11 wholly in force at 6.4.1999; s. 11 in force for certain purposes at 25.2.1999 see s. 28(2)(b); s. 11(1)-(3) in force at 1.4.1999 insofar as not already in force by S.I. 1999/527, art. 2(b), Sch. 2 and s. 11(4) in force at 6.4.1999 insofar as not already in force by S.I. 1999/527, art. 2(c), Sch. 3

Marginal Citations

- M8** 1992 c. 5.

12 Exercise of right of appeal.

- (1) Any appeal against a decision must be brought by a notice of appeal in writing given within 30 days after the date on which notice of the decision was issued.

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- (2) The notice of appeal shall be given to the officer of the Board by whom notice of the decision was given.
- (3) The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the tax appeal Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (4) Subject to section 121D of the Social Security Administration Act 1992 (which provides for an appeal against a decision under that section to be heard by the Special Commissioners) and to regulations under section 46A of the ^{M9}Taxes Management Act 1970 (regulations about jurisdiction), any appeal under this section shall be heard by the General Commissioners, except that the appellant may elect in accordance with section 46(1) of the ^{M10}Taxes Management Act 1970 to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) Subsections (5A) to (5E) of section 31 of the Taxes Management Act 1970 (which relate to an election to bring proceedings before the Special Commissioners) shall have effect in relation to an election under subsection (4) above as they have effect in relation to an election under subsection (4) of that section.

Commencement Information

I5 S. 12 wholly in force at 6.4.1999; s. 12 in force for certain purposes at 25.2.1999 see s. 28(2)(b); s. 12(1)-(3)(5) and s. 12(4) for certain purposes in force at 1.4.1999 by S.I. 1999/527, art. 2(b), **Sch. 2** and s. 12(4) in force at 6.4.1999 insofar as not already in force by S.I. 1999/527, art. 2(c), **Sch. 3**

Marginal Citations

M9 1970 c. 9.

M10 1970 c. 9.

13 Regulations with respect to appeals.

- (1) The Board may, by regulations made with the concurrence of the Lord Chancellor and the Lord Advocate, make provision with respect to appeals to the tax appeal Commissioners under this Part.
- (2) Regulations under subsection (1) above may, in particular—
 - (a) make provision with respect to any of the matters dealt with in the following provisions of the Taxes Management Act 1970 —
 - (i) section 44 and Schedule 3 (assigning proceedings to General Commissioners),
 - (ii) sections 48 to 54 (appeals to the tax appeal Commissioners under the Taxes Acts), and
 - (iii) sections 56 and 56A (appeals from their decisions), or
 - (b) provide for any of those provisions of that Act to apply, with such modifications as may be specified in the regulations, in relation to an appeal to the tax appeal Commissioners under this Part.
- (3) In sections 56B and 56C of the Taxes Management Act 1970 (power of Lord Chancellor to make regulations about the practice and procedure to be followed in connection with appeals to the tax appeal Commissioners under the Taxes Acts),

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any reference to an appeal includes a reference to an appeal to the tax appeal Commissioners under this Part.

(4) Any regulations under section 56B of the Taxes Management Act 1970 which are in force immediately before the commencement of subsection (3) above shall apply in relation to appeals to the tax appeal Commissioners under this Part, subject to any necessary modifications, as they apply in relation to appeals to those Commissioners under the Taxes Acts.

(5) In this section “the Taxes Acts” has the same meaning as in the Taxes Management Act 1970.

Modifications etc. (not altering text)

C2 [S. 13\(1\)](#): functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by [S.I. 1999/678](#), [arts. 2\(1\), 3](#), [Sch.](#) (with [art. 7](#))

[S.13:\(1\)](#) certain functions made exercisable in Scotland (30.6.1999) by [S.I. 1999/1748](#), [art. 3](#), [Sch. 1 para. 22](#)

[S. 13](#): transfer of functions (1.7.1999) by [S.I. 1999/1750](#), [arts. 1\(1\), 2](#), [Sch. 1](#) (with [art. 7](#)); [S.I. 1999/3178](#), [art. 3](#)

Commencement Information

I6 [S. 13](#) wholly in force at 1.4.1999; [s. 13](#) in force for certain purposes at Royal Assent see [s. 28\(2\)\(b\)](#); and in force at 1.4.1999 insofar as not already in force by [S.I. 1999/527](#), [art. 2\(b\)](#), [Sch. 2](#)

14 Matters arising as respects decisions.

- (1) The Board may by regulations make provision as respects matters arising—
- (a) pending any decision of an officer of the Board under section 8 of this Act which relates to—
 - (i) statutory sick pay or statutory maternity pay, or
 - (ii) any person’s liability for contributions,
 - (b) pending the determination by the tax appeal Commissioners of an appeal against any such decision,
 - (c) out of the variation, under regulations made under section 10 of this Act or on appeal, of any such decision, or
 - (d) out of the making of a decision which, under regulations made under that section, supersedes an earlier decision.
- (2) Regulations under this section may, in particular—
- (a) make provision making a person liable to pay contributions pending the determination by the tax appeal Commissioners of an appeal against a decision of an officer of the Board, and
 - (b) make provision as to the repayment in prescribed circumstances of contributions paid by virtue of the regulations.
- (3) Regulations under this section must be made with the concurrence of the Secretary of State in so far as they relate to statutory sick pay or statutory maternity pay.

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Commencement Information

- I7** S. 14 wholly in force at 1.4.1999; s. 14 in force for certain purposes at Royal Assent see s. 28(2)(b) and in force at 1.4.1999 insofar as not already in force by [S.I. 1999/527](#), [art. 2\(b\)](#), [Sch. 2](#)

15 Power to make provision for period before commencement of new social security appeal provisions.

(1) The Secretary of State may by regulations modify any of the enactments to which this subsection applies during any period in which section 8 of this Act is in force but Chapter II of Part I of the ^{M11}Social Security Act 1998 (social security decisions and appeals) is not yet wholly in force.

(2) Subsection (1) above applies to—

- (a) Part II of the ^{M12}Social Security Administration Act 1992 (adjudication), and
- (b) the Acts amended by section 16 of, and Schedule 7 to, this Act.

Commencement Information

- I8** S. 15 wholly in force at 1.4.1999; s. 15 in force for certain purposes at Royal Assent see s. 28(2)(b) and in force at 1.4.1999 insofar as not already in force by [S.I. 1999/527](#), [art. 2\(b\)](#), [Sch. 2](#)

Marginal Citations

- M11** 1998 c. 14.
M12 1992 c. 5.

VALID FROM 14/06/1999

16 Decisions under Pension Schemes Act 1993.

(1) The function of determining the questions referred to in subsection (1) of section 170 of the ^{M13}Pension Schemes Act 1993, as that section has effect before the commencement of paragraph 131 of Schedule 7 to the Social Security Act 1998, is hereby transferred to an officer of the Board.

(2) In section 170 of the Pension Schemes Act 1993 (decisions and appeals), as substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998, for subsections (2) to (4) there is substituted—

“(2) It shall be for an officer of the Inland Revenue—

- (a) to make any decision that falls to be made under or by virtue of Part III of this Act, other than a decision which under or by virtue of that Part falls to be made by the Secretary of State;
- (b) to decide any issue arising in connection with payments under section 7 of the Social Security Act 1986 (occupational pension schemes becoming contracted-out between 1986 and 1993); and
- (c) to decide any issue arising by virtue of regulations made under paragraph 15 of Schedule 3 to the Social Security (Consequential

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Provisions) Act 1992 (continuing in force of certain enactments repealed by the Social Security Act 1973).

- (3) In the following provisions of this section a “relevant decision” means any decision which under subsection (2) falls to be made by an officer of the Inland Revenue, other than a decision under section 53 or 54.
- (4) Sections 9 and 10 of the 1998 Act (revision of decisions and decisions superseding earlier decisions) apply as if—
- (a) any reference in those sections to a decision of the Secretary of State under section 8 of that Act included a reference to a relevant decision; and
 - (b) any other reference in those sections to the Secretary of State were, in relation to a relevant decision, a reference to an officer of the Inland Revenue.
- (5) Regulations may make provision—
- (a) with respect to the procedure to be adopted on any application made under section 9 or 10 of the 1998 Act by virtue of subsection (4); and
 - (b) generally with respect to such applications, revisions under section 9 and decisions under section 10;
- but may not prevent such a revision or decision being made without such an application.
- (6) Section 12 of the 1998 Act (appeal to appeal tribunal) applies as if, for the purposes of subsection (1)(b) of that section, a relevant decision were a decision of the Secretary of State falling within Schedule 3 to the 1998 Act.
- (7) The following provisions of the 1998 Act (which relate to decisions and appeals)—
- sections 13 to 18,
 - sections 25 and 26,
 - section 28, and
 - Schedules 4 and 5,
- shall apply in relation to any appeal under section 12 of the 1998 Act by virtue of subsection (6) above as if any reference to the Secretary of State were a reference to an officer of the Inland Revenue.”

Modifications etc. (not altering text)

C3 S. 16(2) excluded (14.6.1999) by S.I. 1999/1662, art. 4

Commencement Information

I9 S. 16 wholly in force at 5.7.1999; s. 16(2) in force for certain purposes at 5.7.1999 by S.I. 1999/1662, art. 2(a), **Sch. Pt. I** (with saving in art. 4) and s. 16 in force at 5.7.1999 insofar as not already in force by S.I. 1999/1662, art. 2(b), **Sch. Pt. II** (with saving in art. 4)

Marginal Citations

M13 1993 c. 48.

Status: Point in time view as at 04/03/1999. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Part II. (See end of Document for details)

17 Arrangements for discharge of decision-making functions.

- (1) The Secretary of State may make arrangements with the Board for any of his functions under Chapter II of Part I of the ^{M14}Social Security Act 1998 in relation to—
- (a) a decision whether a person was (within the meaning of regulations) precluded from regular employment by responsibilities at home, or
 - (b) a decision whether a person is entitled to be credited with earnings or contributions in accordance with regulations made under section 22(5) of the ^{M15}Social Security Contributions and Benefits Act 1992,
- to be discharged by the Board or by officers of the Board.
- (2) No such arrangements shall affect the responsibility of the Secretary of State or the application of Chapter II of Part I of the Social Security Act 1998 in relation to any decision.
- (3) Until the commencement of Chapter II of Part I of the Social Security Act 1998, the references to that Chapter in subsections (1) and (2) above shall have effect as references to Part II of the ^{M16}Social Security Administration Act 1992.

Marginal Citations

M14 1998 c. 14.

M15 1992 c. 4.

M16 1992 c. 5.

18 Amendments relating to decisions and appeals.

Schedule 7 to this Act (which contains amendments relating to decisions and appeals) shall have effect.

Extent Information

E1 S. 18 extends to Northern Ireland for certain purposes see s. 28(5)(f)

Commencement Information

I10 S. 18 partly in force; s. 18 not in force at Royal Assent see s. 28(3); s. 18 in force for certain purposes at 4.3.1999 by S.I. 1999/527, art. 2(a), **Sch. 1**; s. 18 in force for certain purposes at 1.4.1999 by S.I. 1999/527, art. 2(b), **Sch. 2**; s. 18 in force for certain purposes at 6.4.1999 by S.I. 1999/527, art. 2(c), **Sch. 3**; s. 18 in force for certain purposes at 14.6.1999 by S.I. 1999/1662, art. 2(a), **Sch. Pt. I** (with saving in art. 4); s. 18 in force for certain purposes at 5.7.1999 by S.I. 1999/1662, art. 2(b), **Sch. Pt. II** (with saving in art. 4)

19 Interpretation of Part II.

In this Part—

“the General Commissioners” means the Commissioners for the general purposes of the income tax appointed under section 2 of the ^{M17}Taxes Management Act 1970;

“the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970;

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“the tax appeal Commissioners” means the General Commissioners or the Special Commissioners.

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Commencement Information

I11 S. 19 wholly in force at 1.4.1999; s. 19 not in force at Royal Assent see s. 28(3); in force for certain purposes at 4.3.1999 by S.I. 1999/527, art. 2(a), Sch. 1 and in force at 1.4.1999 in so far as not already in force by S.I. 1999/527, art. 2(b), Sch. 2

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Marginal Citations

M17 1970 c. 9.

Status:

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Changes to legislation:

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