

SCHEDULES

SCHEDULE 7

Section 18.

DECISIONS AND APPEALS

Taxes Management Act 1970 (c. 9)

- 1 In section 2(1) of the Taxes Management Act 1970 (appointment of General Commissioners), after “the Taxes Acts”, in the first place where it occurs, there is inserted “or by Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 2 In section 46(1) of the Taxes Management Act 1970 (General and Special Commissioners), after “the Taxes Acts” there is inserted “or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 3 In section 46A of the Taxes Management Act 1970 (regulations about jurisdiction), after subsection (1) there is inserted—
“(1A) In subsection (1) above “the Taxes Acts” includes Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.”

Social Security Contributions and Benefits Act 1992 (c. 4)

- 4 In section 95(5)(c) of the Social Security Contributions and Benefits Act 1992 (relevant employments), for “or Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999,”.
- 5 In section 116(2) of the Social Security Contributions and Benefits Act 1992 (Her Majesty’s forces), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 6 In section 117(1) of the Social Security Contributions and Benefits Act 1992 (mariners, airmen, etc), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 7 In section 119 of the Social Security Contributions and Benefits Act 1992 (persons outside Great Britain), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 8 In section 120(1) of the Social Security Contributions and Benefits Act 1992 (continental shelf operations), after “this Act” there is inserted “and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 9 In paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (power to combine collection of contributions with tax), for sub-paragraph (4) there is substituted—
“(4) Where—

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- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
 - (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,
- regulations under sub-paragraph (1) above shall not require any such interest to be paid until the decision has been made.”
- 10 In paragraph 7 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (special penalties in the case of certain returns), for sub-paragraph (12) there is substituted—
- “(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph shall not be imposed where—
- (a) a decision relating to contributions falls to be made under or by virtue of section 8, 10 or 11 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999, and has not yet been made; and
 - (b) the decision will affect a person’s liability for the penalty, or the amount of it.”
- 11 In paragraph 8 of Schedule 2 to the Social Security Contributions and Benefits Act 1992 (application of Part V of Taxes Management Act 1970 in relation to Class 4 contributions), for the words from “but nothing” to “arising—” there is substituted “but nothing in this Schedule affects the extent to which the Income Tax Acts apply with respect to any decision falling to be made—”.

Social Security Administration Act 1992 (c. 5)

- 12 In section 117 of the Social Security Administration Act 1992 (issues arising in proceedings), as substituted by paragraph 84 of Schedule 7 to the Social Security Act 1998, in subsection (1)(c), after “Secretary of State” there is inserted “, the Inland Revenue”.
- 13 After section 117 of the Social Security Administration Act 1992 there is inserted—

“117A Issues arising in proceedings: contributions, etc

- (1) This section applies to proceedings before a court—
 - (a) for an offence under this Act or the Jobseekers Act 1995; or
 - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section 15 of the Contributions and Benefits Act); or
 - (c) for the recovery of any sums due to the Inland Revenue or the National Insurance Fund.
- (2) A decision of an officer of the Inland Revenue which—
 - (a) falls within section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
 - (b) relates to or affects an issue arising in the proceedings,
 shall be conclusive for the purposes of the proceedings.
- (3) If—

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- (a) any such decision is necessary for the determination of the proceedings, and
 - (b) the decision of an officer of the Inland Revenue has not been obtained under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999,

the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (4) Subsection (2) above does not apply where, in relation to the decision—
 - (a) an appeal has been brought but not determined;
 - (b) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
 - (c) an application for variation of the decision has been made under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.”
- 14 (1) Section 166 of the Social Security Administration Act 1992 (financial review and report) is amended as follows.
 - (2) In subsection (1)(d), for “and Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
 - (3) In subsection (2)(c), for “and Chapter II of Part I of the Social Security Act 1998” there is substituted “, Chapter II of Part I of the Social Security Act 1998 and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
- 15 (1) Section 179 of the Social Security Administration Act 1992 (reciprocal agreements with countries outside the United Kingdom) is amended as follows.
 - (2) In subsection (3)(a), before the words “and the Contributions” there is inserted “, Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999”.
 - (3) In subsection (4), before paragraph (b) there is inserted—
 - “(ac) to Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and”.
- 16 After section 180 of the Social Security Administration Act 1992 there is inserted—

“180A Payment of travelling expenses by the Commissioners of Inland Revenue

The Inland Revenue may pay such travelling expenses as they may determine—

- (a) to persons required by them to attend any interview in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999;

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- (b) to persons attending local offices in connection with the operation of the Contributions and Benefits Act, this Act, or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.”

Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

- 17 In paragraph 8 of Schedule 2 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (application of Part V of Taxes Management Act 1970 in relation to Class 4 contributions), for the words from “but nothing” to “arising —” there is substituted “but nothing in this Schedule affects the extent to which the Income Tax Acts apply with respect to any decision falling to be made—”.

Pension Schemes Act 1993 (c. 48)

- 18 (1) Section 167 of the Pension Schemes Act 1993 (application of general provisions relating to administration of social security) is amended as follows.
- (2) In subsection (2), at the end there is inserted—
- “section 180A (payment of travelling expenses by Inland Revenue).”
- (3) Subsection (3) is omitted.
- 19 (1) Section 171 of the Pension Schemes Act 1993 (questions arising in proceedings) is amended as follows.
- (2) In subsection (1), for the words from “any such question” to “Secretary of State” there is substituted “any relevant decision as defined by section 170(3) is made by the Inland Revenue, the decision”.
- (3) For subsections (2) and (3) there is substituted—
- “(2) If—
- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of the Inland Revenue has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the Social Security Act 1998,
- the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II of Part I of that Act.
- (3) Subsection (1) does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined,
- (b) an application for leave to appeal has been made but not determined,
- (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
- (d) an application has been made under section 9 or 10 of that Act.
- (4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings.”
- 20 After section 171 of the Pension Schemes Act 1993 there is inserted—

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“171A Reports by Inland Revenue

- (1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 170(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.
- (2) Any report under this section—
 - (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
 - (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998.
- (3) A copy of every report under this section shall be laid before each House of Parliament, unless the report is included in, or annexed to, a report of which a copy is so laid.”

Employment Rights Act 1996 (c. 18)

- 21 (1) Section 215 of the Employment Rights Act 1996 (employment abroad etc.) is amended as follows.
 - (2) In subsection (4), for “the Secretary of State” there is substituted “an officer of the Commissioners of Inland Revenue”.
 - (3) For subsection (5) there is substituted—

“(5) Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (decisions and appeals) shall apply in relation to the determination of any issue by the Inland Revenue under subsection (4) as if it were a decision falling within section 8(1) of that Act.”

Social Security Act 1998 (c. 14)

- 22 (1) Section 8 of the Social Security Act 1998 (decisions by Secretary of State) is amended as follows.
 - (2) In subsection (1)—
 - (a) at the end of paragraph (b) there is inserted “and”, and
 - (b) paragraph (d) and the word “and” immediately preceding it are omitted.
 - (3) For subsection (5) there is substituted—

“(5) Subsection (1)(c) above does not include any decision which under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 falls to be made by an officer of the Inland Revenue.”
- 23 In section 10 of the Social Security Act 1998 (decisions superseding earlier decisions)—
 - (a) in subsection (1), for “subsections (3) and (4)” there is substituted “subsection (3)”, and
 - (b) subsection (4) shall cease to have effect.

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24 After section 10 of the Social Security Act 1998 there is inserted—

“Reference of issues by Secretary of State to Inland Revenue

10A Reference of issues by Secretary of State to Inland Revenue

(1) Regulations may make provision requiring the Secretary of State, where on consideration of any claim or other matter he is of the opinion that there arises any issue which under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 falls to be decided by an officer of the Inland Revenue, to refer the issue to the Inland Revenue.

(2) Regulations under this section may—

- (a) provide for the Inland Revenue to give the Secretary of State a preliminary opinion on any issue referred to them,
- (b) specify the circumstances in which an officer of the Inland Revenue is to make a decision under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 on a reference by the Secretary of State,
- (c) enable or require the Secretary of State, in specified circumstances, to deal with any other issue arising on consideration of the claim or other matter pending the decision on the referred issue, and
- (d) require the Secretary of State to decide the claim or other matter in accordance with the decision of an officer of the Inland Revenue on the issue referred to them, or in accordance with any determination of the tax appeal Commissioners made on appeal from their decision.”

25 (1) Section 12 of the Social Security Act 1998 (appeal to appeal tribunal) is amended as follows.

(2) In subsection (1)—

- (a) at the end of paragraph (a) there is inserted “or”, and
- (b) paragraph (c) and the word “or” immediately preceding it are omitted.

(3) For subsection (2) there is substituted—

“(2) In the case of a decision to which this section applies, the claimant and such other person as may be prescribed shall have a right to appeal to an appeal tribunal, but nothing in this subsection shall confer a right of appeal in relation to a prescribed decision, or a prescribed determination embodied in or necessary to a decision.”

26 In section 13 of the Social Security Act 1998 (redetermination etc. of appeals by tribunal), for subsection (4) there is substituted—

“(4) In this section and section 14 below “the principal parties” means—

- (a) the persons mentioned in subsection (3)(a) and (b) of that section, and
- (b) where applicable, the person mentioned in subsection (3)(d) and such a person as is first mentioned in subsection (4) of that section.”

27 In section 14 of the Social Security Act 1998 (appeal from tribunal to Commissioner), the following provisions are omitted—

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- (a) subsection (2), and
 - (b) in subsection (3), the words “In any other case”.
- 28 In section 16 of the Social Security Act 1998 (procedure), subsections (4) and (5) shall cease to have effect.
- 29 In section 18 of the Social Security Act 1998 (matters arising as respects decisions), in subsection (1)(a)—
- (a) at the end of each of sub-paragraphs (i) and (ii) there is inserted “or”, and
 - (b) sub-paragraphs (iii) and (iv) are omitted.
- 30 In section 19(1) of the Social Security Act 1998 (medical examination required by Secretary of State), the words “or to statutory sick pay or statutory maternity pay” are omitted.
- 31 In section 20(1) of the Social Security Act 1998 (medical examination required by appeal tribunal), the words “or to statutory sick pay or statutory maternity pay” are omitted.
- 32 In section 21 of the Social Security Act 1998 (suspension in prescribed circumstances), subsection (4) shall cease to have effect.
- 33 After section 24 of the Social Security Act 1998 there is inserted—

“Appeals dependent on issues falling to be decided by Inland Revenue

24A Appeals dependent on issues falling to be decided by Inland Revenue

- (1) Regulations may make provision for an appeal tribunal or Commissioner, where on any appeal there arises any issue which under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 falls to be decided by the Inland Revenue, to require the Secretary of State to refer the issue to the Inland Revenue.
 - (2) Regulations under this section may—
 - (a) provide for the appeal to be referred to the Secretary of State pending the decision by an officer of the Inland Revenue,
 - (b) enable or require the Secretary of State, in specified circumstances, to deal with any other issue arising on the appeal pending the decision on the referred issue, and
 - (c) enable the Secretary of State, on receiving the decision of an officer of the Inland Revenue, or any determination of the tax appeal Commissioners made on an appeal from his decision—
 - (i) to revise his decision,
 - (ii) to make a decision superseding his decision, or
 - (iii) to refer the appeal to the appeal tribunal or Commissioner for determination.”
- 34 In section 28 of the Social Security Act 1998 (correction of errors and setting aside of decisions), after subsection (1) there is inserted—
- “(1A) In subsection (1) “decision” does not include any decision made by an officer of the Inland Revenue, other than a decision under or by virtue of Part III of the Pension Schemes Act 1993.”

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- 35 In section 39(1) of the Social Security Act 1998 (interpretation of Chapter II of Part I)—
- (a) in the definition of “Commissioner”, after ““Commissioner”” there is inserted “(except in the expression “tax appeal Commissioners”)”, and
 - (b) at the end of subsection (1) there is inserted—

““tax appeal Commissioners” means the Commissioners for the general purposes of the income tax appointed under section 2 of the Taxes Management Act 1970 or the Commissioners for the special purposes of the Income Tax Acts appointed under section 4 of that Act;”.
- 36 In Schedule 3 to the Social Security Act 1998 (decisions against which an appeal lies), paragraphs 10 to 15 and 18 to 29 shall cease to have effect.