

SCHEDULE 4

ENFORCEMENT

The Administration Act

2.—(1) Section 104 of the Administration Act is amended as follows.

(2) For subsection (5) there is substituted—

“(5) Where any premises—

(a) are liable to be inspected—

(i) by an officer of the Inland Revenue under section 104ZA below, or

(ii) by an inspector or officer appointed or employed by some other government department, or

(b) are under the control of the Inland Revenue or some other government department,

the Department may make arrangements with the Inland Revenue or that other department for any of the powers or duties of inspectors under this section to be carried out by an inspector or officer employed by the Inland Revenue or that other department.”.

(3) In subsection (8)—

(a) at the end of paragraph (b) there is inserted “except so far as relating to contributions, statutory sick pay or statutory maternity pay”, and

(b) at the end of paragraph (e) there is inserted “except Part III of that Act”.

(4) Subsections (2)(c)(i) and (ii), (6)(a)(i) and (ii) and (7)(e)(i) shall cease to have effect.

3. After section 104 of that Act there is inserted—

“Powers exercisable by officers of Inland Revenue.

104ZA.—(1) For the purposes of the enactments to which this section applies, the Inland Revenue may authorise any of their officers to exercise the powers conferred by this section.

(2) An officer authorised under this section shall, for the purposes of the execution of those enactments, have the following powers—

(a) to enter at all reasonable times any premises liable to inspection under this section;

(b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of the enactments are being, or have been, complied with in any such premises;

(c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under the enactments on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—

(i) contributions; or

(ii) a contributions equivalent premium,

and to require every such person to be so examined.

(3) Premises are liable to inspection under this section if an officer has reasonable grounds for believing that—

(a) any persons are employed there;

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- (b) a trade or business is being carried on from there;
- (c) any records relating to a trade or business are kept there; or
- (d) a personal or occupational pension scheme is being administered there;

but a private dwelling-house is not liable to inspection under this section unless an officer has reasonable grounds for believing that a trade or business is being carried on from the dwelling-house and that the trade or business is not also being carried on from premises other than a dwelling-house.

(4) Every officer authorised under this section shall be furnished with a certificate of his authorisation, and on applying for admission to any premises for the purpose of the enactments shall, if so required, produce the authorisation.

(5) In accordance with this section, persons shall furnish to an officer all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—

- (a) whether—
 - (i) any contribution; or
 - (ii) any contributions equivalent premium,
is or has been payable, or has been duly paid, by or in respect of any person; or
- (b) whether statutory sick pay or statutory maternity pay is or was payable to or in respect of any person.

(6) The following persons are under the duty imposed by subsection (5) above—

- (a) any person who is or has been an employer or an employee within the meaning of any provision of the Contributions and Benefits Act;
- (b) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
- (c) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
- (d) the servants or agents of any such person as is specified in any of the preceding paragraphs.

(7) This section applies to the following enactments—

- (a) the Contributions and Benefits Act so far as relating to contributions, statutory sick pay or statutory maternity pay;
- (b) this Act; and
- (c) Part III of the Pensions Act.

(8) Any reference in this section to a contributions equivalent premium includes a reference to state scheme premiums payable before 6th April 1997 (the day on which Article 138 of the Pensions (Northern Ireland) Order 1995 came into operation)."

4.—(1) Section 105 of that Act (delay, obstruction etc. of inspector) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), after "this Act" there is inserted "other than an Inland Revenue power", and
- (b) in paragraph (b), after "this Act" there is inserted "otherwise than in the exercise of an Inland Revenue power".

(3) After subsection (2) there is added—

“(3) In subsection (1) “Inland Revenue power” means any power conferred on an officer of the Inland Revenue by section 104ZA above or by virtue of section 104(5) above.

(4) Where by virtue of section 104(5) above any power conferred by section 104 above is exercised by an officer of the Inland Revenue, section 98 of the Taxes Management Act 1970 shall apply as if the reference in that section to section 104ZA above included a reference to section 104 above.”.

5. In section 107(1) of the Administration Act (breach of regulations), in subsection (2)—

(a) for “Department”, in both places where it occurs, there is substituted “Inland Revenue”, and

(b) in paragraph (e), for “its” there is substituted “their”.

6. Section 108A(2) of that Act (which imposes penalties relating to contributions but is not yet in force) shall cease to have effect.

7.—(1) Section 112 of that Act (evidence of non-payment) is amended as follows.

(2) In subsection (1)(3), for “Department” there is substituted “Inland Revenue”.

(3) Subsections (1A) and (2) shall cease to have effect.

(4) In subsection (3)(4), the words “as is mentioned in subsection (1) or (2) above” are omitted.

(5) In subsection (4), for “Department or of the Secretary of State” there is substituted “Inland Revenue”.

(6) For subsection (7) there is substituted—

“(7) In this section “authorised officer” means any officer of the Inland Revenue authorised by them for the purposes of this section.”.

8. In section 115A(5) of that Act (recovery of contributions, etc.), in subsections (1) and (2), for “Department” there is substituted “Inland Revenue”.

9. In section 115B(6) of that Act (liability of directors, etc. for company’s contributions), for “Department”, in each place where it occurs, there is substituted “Inland Revenue”.

10.—(1) Section 115C of that Act (appeals in relation to personal liability notices) is amended as follows.

(2) For any reference to the Department there is substituted a reference to the Inland Revenue.

(3) In subsection (2), for “an appeal tribunal” there is substituted “the Special Commissioners”.

(4) In subsection (5), for the words from “appeal tribunal” to “its” there is substituted “Special Commissioners shall either dismiss the appeal or remit the case to the Inland Revenue, with any recommendations the Special Commissioners see fit to make, for the Inland Revenue to consider whether to vary their”.

(5) In subsection (6), the definitions of “appeal tribunal” and “revise” are omitted and at the end there is inserted—

““the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts;

(1) Section 107 was substituted by Article 56 of the Social Security (Northern Ireland) Order 1998.

(2) Section 108A was substituted by Article 57 of the Social Security (Northern Ireland) 1998.

(3) Subsection (1) was substituted by Article 58(1) of the Social Security (Northern Ireland) Order 1998.

(4) Subsection (3) was amended by Article 58(2) of the Social Security (Northern Ireland) Order 1998.

(5) Section 115A was inserted by Article 59 of the Social Security (Northern Ireland) Order 1998.

(6) Sections 115B and 115C were inserted by Article 60 of the Social Security (Northern Ireland) Order.

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“vary” means vary under regulations made under Article 9 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.”.

11. In section 142 of that Act (destination of contributions), after subsection (4) there is inserted—

“(4ZA) There shall be paid into the National Insurance Fund so much of any penalty imposed under section 98 of the Taxes Management Act 1970 in a case relating to section 104ZA of this Act (including any penalty imposed by virtue of section 105(4) of this Act) as remains after deduction by the Inland Revenue of the administrative expenses attributable to its recovery.

(4ZB) Subsections (4)(b) and (c) and (4ZA) above shall have effect notwithstanding any provision which treats a penalty under section 98 or 98A of the Taxes Management Act 1970 as if it were tax charged in an assessment and due and payable.”.