

SCHEDULE 6

Article 17

DECISIONS AND APPEALS

The Taxes Management Act 1970

1. In section 2(1) (appointment of General Commissioners), section 46(1) (General and Special Commissioners) and section 46A(1A) (regulations about jurisdiction) of the Taxes Management Act 1970⁽¹⁾, after “the Social Security Contributions (Transfer of Functions, etc.) Act 1999”⁽²⁾ there is inserted “or by Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

The Social Security Administration Act 1992

2.—(1) In section 179 of the Social Security Administration Act 1992⁽³⁾ (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 III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

(3) In subsection (4), before paragraph (b), there is inserted—

“(ad) to Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and”.

The Contributions and Benefits Act

3. In section 95(5)(c) of the Contributions and Benefits Act (relevant employments), for “or Chapter II of Part II of the Social Security (Northern Ireland) Order 1998” there is substituted “Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 or Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

4. In section 116(2) of that Act (Her Majesty’s forces), after “this Act” there is inserted “and Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

5. In section 117(1) of that Act (mariners, airmen, etc.), after “this Act” there is inserted “and Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

6. In section 119 of that Act (persons outside Northern Ireland), after “this Act” there is inserted “and Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999”.

7. In paragraph 6 of Schedule 1 to that Act (power to combine collection of contributions with tax), for sub-paragraph (4) there is substituted—

“(4) Where—

(a) a decision relating to contributions falls to be made under or by virtue of Article 7, 9 or 10 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 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.”.

(1) 1970 c. 9; section 46A was added by paragraph 3 of Schedule 16 to the Finance (No. 2) Act 1992 (c. 48).

(2) Inserted by paragraphs 1 to 3 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(3) 1992 c. 5.

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8. In paragraph 7 of Schedule 1 to that Act (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 Article 7, 9 or 10 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 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.”.

The Administration Act

9. In section 111(1)(c)(4) of the Administration Act (issues arising in proceedings), after “Department” there is inserted “, the Inland Revenue”.

10. After section 111 of that Act there is inserted—

“Issues arising in proceedings: contributions, etc.

111A.—(1) This section applies to proceedings before a court—

- (a) for an offence under this Act or the Jobseekers (Northern Ireland) Order 1995; or
- (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section xxx5 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 Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999; and
- (b) relates to or affects an issue arising in the proceedings,

shall be conclusive for the purposes of the proceedings.

(3) If—

- (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 Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999,

the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 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 Article 9 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.

(4) Section 111 was substituted by paragraph 65 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I.1998/1506 (N.I. 10)).

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(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.”.

11. After section 156 of that Act there is inserted—

“Payment of travelling expenses by the Commissioners of Inland Revenue

156A 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 III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999;
- (b) to persons attending local offices in connection with the operation of the Contributions and Benefits Act, this Act, or Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.”.

The Pensions Act

12.—(1) Section 163 of the Pensions Act (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 156A (payment of travelling expenses by Inland Revenue).”.

(3) Subsection (3) is omitted.

13.—(1) Section 166(5) of that Act (questions arising in proceedings) is amended as follows.

(2) In subsection (1), for the words from “any such question” to “Department” there is substituted “any relevant decision as defined by section 165(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 Article 8 or 9 of the Social Security (Northern Ireland) Order 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 II of that Order.

(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 Article 8 or 9 of that Order.

(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.”.

(5) Section 166 was amended by paragraph 61 of Schedule 3 to the Pensions (Northern Ireland) Order 1995.

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14. After section 166 of that Act there is inserted—

“Reports by Inland Revenue.

166A.—(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 165(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 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⁽⁶⁾.

(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.”.

The Employment Rights (Northern Ireland) Order 1996

15.—(1) Article 11 of the Employment Rights (Northern Ireland) Order 1996⁽⁷⁾ (employment abroad etc.) is amended as follows.

(2) In paragraph (4), for “the Department of Health and Social Services” there is substituted “an officer of the Commissioners of Inland Revenue”.

(3) For paragraph (5) there is substituted—

“(5) Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (decisions and appeals) shall apply in relation to the determination of any issue by the Commissioners of Inland Revenue under paragraph (4) as if it were a decision falling within Article 7(1) of that Order”.

The 1998 Order

16.—(1) Article 9 of the 1998 Order (decisions by the Department) is amended as follows.

(2) In paragraph (1)—

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

(3) For paragraph (5) there is substituted—

“(5) Paragraph (1)(c) does not include any decision which under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 falls to be made by an officer of the Inland Revenue.”

17. In Article 11 of that Order (decisions superseding earlier decisions)—

- (a) in paragraph (1), for “paragraphs (3) and (4)” there is substituted “paragraph (3)”, and
- (b) paragraph (4) shall cease to have effect.

18. After Article 11 of that Order there is inserted—

⁽⁶⁾ 1998 c. 14.

⁽⁷⁾ S.I. 1996/1919 (N.I. 16).

“Reference of issues by the Department to Inland Revenue

Reference of issues by the Department to Inland Revenue.

11A.—(1) Regulations may make provision requiring the Department, where on consideration of any claim or other matter it is of the opinion that there arises any issue which under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 falls to be decided by an officer of the Inland Revenue, to refer the issue to the Inland Revenue.

(2) Regulations under this Article may—

- (a) provide for the Inland Revenue to give the Department 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 Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 on a reference by the Department,
- (c) enable or require the Department, 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 Department 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.”.

19.—(1) Article 13 of that Order (appeal to appeal tribunal) is amended as follows.

(2) In paragraph (1)—

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

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

“(2) In the case of a decision to which this Article 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 paragraph shall confer a right of appeal in relation to a prescribed decision, or a prescribed determination embodied in or necessary to a decision.”.

20. In Article 14 of that Order (redetermination, etc. of appeals by tribunal), for paragraph (4) there is substituted—

“(4) In this Article and Article 15 “the principal parties” means—

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

21. In Article 15 of that Order (appeal from tribunal to Commissioner), the following provisions are omitted—

- (a) paragraph (2), and
- (b) in paragraph (3), the words “In any other case”.

22. In Article 16 of that Order (procedure), paragraphs (4) and (5) shall cease to have effect.

23. In Article 18 of that Order (matters arising as respects decisions), in paragraph (1)(a)—

- (a) at the end of each of heads (i) and (ii) there is inserted “or”, and

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(b) heads (iii) and (iv) are omitted.

24. In Article 19(1) of that Order (medical examination required by the Department), the words “or to statutory sick pay or statutory maternity pay” are omitted.

25. In Article 20(1) of that Order (medical examination required by appeal tribunal), the words “or to statutory sick pay or statutory maternity pay” are omitted.

26. In Article 21 of that order (suspension in prescribed circumstances), paragraph (4) shall cease to have effect.

27. After Article 24 of that Order there is inserted—

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

Appeals dependent on issues falling to be decided by Inland Revenue

24A.—(1) Regulations may make provision for an appeal tribunal or Commissioner, where on any appeal there arises any issue which under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 falls to be decided by the Inland Revenue, to require the Department to refer the issue to the Inland Revenue.

(2) Regulations under this Article may—

- (a) provide for the appeal to be referred to the Department pending the decision by an officer of the Inland Revenue,
- (b) enable or require the Department, in specified circumstances, to deal with any other issue arising on the appeal pending the decision on the referred issue, and
- (c) enable the Department, 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.”.

28. In Article 28 of that Order (correction of errors and setting aside of decisions), after paragraph (1) there is inserted—

“(1A) In paragraph (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 (Northern Ireland) Act 1993.”.

29. In Article 39(1) of that Order (interpretation, etc. of Chapter II of Part I)—

(a) after the definition of “appeal tribunal” there is inserted—

““Inland Revenue” means the Commissioners of Inland Revenue;” and

(b) after the definition of “relevant benefit” there is added—

““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;”.

30. In Schedule 3 to that Order (decisions against which an appeal lies), paragraphs 10 to 15 and 18 to 29 shall cease to have effect.

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