

SCHEDULES

SCHEDULE 1

Section 1(4).

SUPPLEMENTARY PROVISIONS RELATING TO CONTRIBUTIONS OF CLASSES 1, 1A, 2 AND 3

Class 1 contributions where earner employed in more than one employment

- 1 (1) For the purposes of determining whether Class 1 contributions are payable in respect of earnings paid to an earner in a given week and, if so, the amount of the contributions—
- (a) all earnings paid to him or for his benefit in that week in respect of one or more employed earner's employments under the same employer shall, except as may be provided by regulations, be aggregated and treated as a single payment of earnings in respect of one such employment; and
 - (b) earnings paid to him or for his benefit in that week by different persons in respect of different employed earner's employments shall in prescribed circumstances be aggregated and treated as a single payment of earnings in respect of one such employment;
- and regulations may provide that the provisions of this sub-paragraph shall have effect in cases prescribed by the regulations as if for any reference to a week there were substituted a reference to a period prescribed by the regulations.
- (2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above and the aggregated earnings are not less than the current lower earnings limit, then, except as may be provided by regulations—
- (a) the amount of the primary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (3) below; and
 - (b) the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.
- (3) The amount of the primary Class 1 contribution shall be the aggregate of the amounts obtained—
- (a) by applying the rates of primary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments—
 - (i) to the part of the aggregated earnings attributable to any such employments, or
 - (ii) if that part exceeds the current upper earnings limit, to so much of that part as does not exceed that limit; and
 - (b) if that part is less than that limit, by applying the rate of primary Class 1 contributions that would apply if the aggregated earnings were all attributable to employments which are not contracted-out to so much of the remainder of the aggregated earnings as, when added to that part, does not exceed that limit.

- (4) In relation to earners paid otherwise than weekly, any reference in sub-paragraph (2) or (3) above to the lower or upper earnings limit shall be construed as a reference to the prescribed equivalent of that limit.
- (5) The power under sub-paragraph (4) above to prescribe an equivalent of a limit includes power to prescribe an amount which exceeds, by not more than £1.00, the amount which is the arithmetical equivalent of that limit.
- (6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts obtained—
 - (a) by applying the rates of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to contracted-out employments to the part of the aggregated earnings attributable to any such employments; and
 - (b) by applying the rate of secondary Class 1 contributions that would apply if the aggregated earnings were all attributable to employments which are not contracted-out to the remainder of the aggregated earnings.
- (7) Where any single payment of earnings is made in respect of two or more employed earner's employments under different employers, liability for Class 1 contributions shall be determined by apportioning the payment to such one or more of the employers as may be prescribed, and treating a part apportioned to any employer as a separate payment of earnings by him.
- (8) Where earnings are aggregated under sub-paragraph (1)(b) above, liability (if any) for the secondary contribution shall be apportioned, in such manner as may be prescribed, between the secondary contributors concerned.

Earnings not paid at normal intervals

- 2 Regulations may, for the purposes of Class 1 contributions, make provision as to the intervals at which payments of earnings are to be treated as made.

Method of paying Class 1 contributions

- 3 (1) Where earnings are paid to an employed earner and in respect of that payment liability arises for primary and secondary Class 1 contributions, the secondary contributor shall (except in prescribed circumstances), as well as being liable for his own secondary contribution, be liable in the first instance to pay also the earner's primary contribution, on behalf of and to the exclusion of the earner; and for the purposes of this Act and the Administration Act contributions paid by the secondary contributor on behalf of the earner shall be taken to be contributions paid by the earner.
- (2) Notwithstanding any contract to the contrary, no secondary contributor shall be entitled—
 - (a) to make, from earnings paid by him, any deduction in respect of his own or any other person's secondary Class 1 contributions, or
 - (b) otherwise to recover such contributions from any earner to whom he pays earnings.
- (3) A secondary contributor shall be entitled, subject to and in accordance with regulations, to recover from an earner the amount of any primary Class 1 contribution

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paid or to be paid by him on behalf of the earner; and notwithstanding anything in any enactment, regulations under this sub-paragraph shall provide for recovery to be made by deduction from the earner's earnings, and for it not to be made in any other way.

General provisions as to Class 1 contributions

- 4 Regulations may, in relation to Class 1 contributions, make provision—
- (a) for calculating the amounts payable according to a scale prepared from time to time by the Department or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
 - (b) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age or retirement, shall be determined as at the beginning of the week or as at the end of it;
 - (c) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid; and
 - (d) without prejudice to sub-paragraph (c) above, for enabling the Department, where it is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of Class 1 contributions is avoided or reduced by means of irregular or unequal payments, to give directions for securing that such contributions are payable as if that practice were not followed.

Class 1A contributions where car made available by reason of more than one employment

- 5 Regulations may modify section 10 above in relation to cases where a car is made available by reason of two or more employed earner's employment under different employers.

Power to combine collection of contributions with tax

- 6 (1) Regulations made with the concurrence of the Inland Revenue may—
- (a) provide for Class 1, Class 1A or Class 2 contributions to be paid, accounted for and recovered in like manner as income tax deducted from the emoluments of an office or employment by virtue of regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE);
 - (b) apply or extend with or without modification in relation to such contributions any of the provisions of the Income Tax Acts or of regulations under that section;
 - (c) make provision for the appropriation of the payments made by any person between his liabilities in respect of income tax and contributions.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be made by virtue of paragraph (a) of that sub-paragraph includes in relation to Class 1 or Class 1A contributions—
- (a) provision for requiring the payment of interest on sums due in respect of Class 1 or Class 1A contributions which are not paid by the due date, for determining the date (being, in the case of Class 1 contributions, not less than 14 days after the end of the tax year in respect of which the sums are due)

from which such interest is to be calculated and for enabling the repayment or remission of such interest;

- (b) provision for requiring the payment of interest on sums due in respect of Class 1 or Class 1A contributions which fall to be repaid and for determining the date (being not less than one year after the end of the tax year in respect of which the sums are due) from which such interest is to be calculated;
- (c) provision for, or in connection with, the imposition and recovery of penalties in relation to any returns required to be made which relate to Class 1 or Class 1A contributions, but subject to sub-paragraph (7) and paragraph 7 below;

and any reference to contributions or income tax in paragraph (b) or (c) of sub-paragraph (1) above shall be construed as including a reference to any interest or penalty in respect of contributions or income tax, as the case may be.

- (3) The rate of interest applicable for any purpose of this paragraph shall be—
 - (a) the rate from time to time prescribed for that purpose under section 178 of the Finance Act 1989 for the purpose of any enactment (whether or not extending to Northern Ireland) if prescribed by regulations made by virtue of this paragraph; or
 - (b) such other rate as may be prescribed by such regulations.
- (4) Regulations under this paragraph may require the payment of interest on sums due in respect of contributions, notwithstanding that a question arising in relation to the contributions has not been determined under section 15 of the Administration Act by the Department, except that where—
 - (a) any such question arises which affects a person's liability for, or the amount of, any such interest, and
 - (b) either—
 - (i) that person requires the question to be determined under section 15, or
 - (ii) a question of law arising in connection with the determination of the question is, or is to be, referred to the Court of Appeal under section 16 of the Administration Act,

the regulations shall not require the payment of any such interest until the question has been determined under section 15 of the Administration Act by the Department or the reference has been finally disposed of under section 16 of that Act, as the case may be; but, subject to that, this paragraph is without prejudice to sections 15 to 17 of the Administration Act.

- (5) The power to make regulations under this paragraph includes power to make such provision as the Department considers expedient in consequence of any provision made by or under section 154 or 163 above.
- (6) Provision made in regulations under this paragraph, by virtue of sub-paragraph (5) above, may in particular require the inclusion—
 - (a) in returns, certificates and other documents; or
 - (b) in any other form of record;

which the regulations require to be kept or produced or to which those regulations otherwise apply, of such particulars relating to statutory sick pay, statutory maternity pay or deductions or payments made by virtue of section 163(1) above as may be prescribed by those regulations.

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- (7) Section 98 of the Taxes Management Act 1970 shall apply in relation to regulations made by virtue of this paragraph as it applies in relation to regulations made under section 203 of the Income and Corporation Taxes Act 1988 (PAYE).
- (8) The Inland Revenue shall, at such times and in such manner as the Department of Finance and Personnel may direct, account to the Department for, and pay to it—
- (a) the sums estimated by the Inland Revenue, in such manner as may be so directed, to have been received by them as contributions in accordance with regulations made by virtue of this paragraph; and
 - (b) so much of any interest recovered by the Inland Revenue by virtue of this paragraph as remains after the deduction by them of any administrative costs attributable to its recovery.

Special penalties in the case of certain returns

- 7 (1) This paragraph applies where regulations under paragraph 6 above make provision requiring any return which is to be made in accordance with a specified provision of regulations under that paragraph (the “contributions return”) to be made—
- (a) at the same time as any specified return required to be made in accordance with a provision of regulations made by the Inland Revenue under section 203(2) (PAYE) or 566(1) (sub-contractors) of the Income and Corporation Taxes Act 1988 to which section 98A of the Taxes Management Act 1970 applies (the “tax return”); or
 - (b) if the circumstances are such that the return mentioned in paragraph (a) above does not fall to be made, at a time defined by reference to the time for making that return, had it fallen to be made;
- and, in a case falling within paragraph (b) above, any reference in the following provisions of this paragraph to the tax return shall be construed as a reference to the return there mentioned.
- (2) Where this paragraph applies, regulations under paragraph 6 above may provide that section 98A of the Taxes Management Act 1970 (penalties for late, fraudulent or negligent returns) shall apply in relation to any specified provision of regulations in accordance with which the contributions return is required to be made; and where they so provide then, subject to the following provisions of this paragraph—
- (a) that section shall apply in relation to the contributions return as it applies in relation to the tax return; and
 - (b) sections 100 to 100D and 102 to 104 of that Act shall apply in relation to a penalty under section 98A of that Act to which a person is liable by virtue of this sub-paragraph as they apply in relation to any other penalty under that section.
- (3) Where a person is liable to a penalty under paragraph (a) of subsection (2) of section 98A of that Act (first 12 months' default) in consequence of a failure in respect of a tax return, he shall not also be liable to a penalty under that paragraph in respect of any failure in respect of the associated contributions return.
- (4) In any case where—
- (a) a person is liable to a penalty under subsection (2)(b) or (4) of that section (tax-related penalties) in respect of both a tax return and its associated contributions return, and

- (b) an officer of the Inland Revenue authorised for the purposes of section 100 of that Act has determined that a penalty is to be imposed under that provision in respect of both returns,
the penalty so imposed shall be a single penalty of an amount not exceeding the limit determined under sub-paragraph (5) below.
- (5) The limit mentioned in sub-paragraph (4) above is an amount equal to the sum of—
- (a) the maximum penalty that would have been applicable under subsection (2) (b) or (4) of section 98A of that Act (as the case may be) for a penalty in relation to the tax return only; and
 - (b) the maximum penalty that would have been so applicable in relation to the associated contributions return only.
- (6) So much of any single penalty imposed by virtue of sub-paragraph (4) above as is recovered by the Inland Revenue shall, after the deduction of any administrative costs of the Inland Revenue attributable to its recovery, be apportioned between the Inland Revenue and the Department in the ratio T:C, where—
- T is the maximum penalty that could have been imposed under the provision in question in relation to the tax return only; and
- C is the maximum penalty that could have been so imposed in relation to the associated contributions return only.
- (7) The Inland Revenue shall, at such times and in such manner as the Department of Finance and Personnel may direct, account to the Department for, and pay to it—
- (a) the amounts apportioned to the Department under sub-paragraph (6) above in respect of such penalties as are there mentioned; and
 - (b) so much of any penalty otherwise imposed by virtue of this paragraph and recovered by the Inland Revenue as remains after the deduction by them of any administrative costs attributable to its recovery.
- (8) Sub-paragraphs (6) and (7) above shall have effect notwithstanding any provision which treats a penalty under section 98A of that Act as if it were tax charged in an assessment and due and payable.
- (9) In the application of section 98A of that Act by virtue of this paragraph, any reference to a year of assessment shall be construed, in relation to a contributions return, as a reference to the tax year corresponding to that year of assessment.
- (10) In the application of section 100D of that Act (court proceedings for penalties in cases of fraud) by virtue of this paragraph—
- (a) subsection (2) shall have effect with the omission of the words “England, Wales or” and paragraphs (a) and (b); and
 - (b) subsection (3) shall have effect with the omission of the words from “instituted in England and Wales” to “and any such proceedings” and the substitution for “that Part of that Act” of “Part II of the Crown Proceedings Act 1947”.
- (11) In the application of section 103 of that Act (time limit for recovery) by virtue of this paragraph—
- (a) any reference in subsection (1) to tax shall be taken to include a reference to Class 1 and Class 1A contributions;
 - (b) any penalty by virtue of sub-paragraph (4) above shall be regarded as a penalty in respect of the tax return in question; and

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- (c) where, by virtue of subsection (2) (death), subsection (1)(b) does not apply in relation to a penalty under section 98A(2)(b) or (4) of that Act in respect of a tax return, it shall also not apply in relation to a penalty so imposed in respect of the associated contributions return.
- (12) A penalty under section 98A of that Act as it applies by virtue of this paragraph may be imposed notwithstanding that a question arising in relation to contributions has not been determined under section 15 of the Administration Act by the Department except that where—
- (a) any such question arises which affects a person’s liability for, or the amount of, the penalty, and
 - (b) either—
 - (i) that person requires the question to be determined under section 15, or
 - (ii) a question of law arising in connection with the determination of the question is, or is to be, referred to the Court of Appeal under section 16 of the Administration Act,
- the penalty shall not be imposed until the question has been determined under section 15 of the Administration Act by the Department or the reference has been finally disposed of under section 16 of that Act, as the case may be; but, subject to that, this paragraph is without prejudice to sections 15 to 17 of the Administration Act.
- (13) For the purposes of this paragraph—
- (a) “contributions return” and “tax return” shall be construed in accordance with sub-paragraph (1) above; and
 - (b) a contributions return and a tax return are “associated” if the contributions return is required to be made—
 - (i) at the same time as the tax return, or
 - (ii) where sub-paragraph (1)(b) above applies, at a time defined by reference to the time for making the tax return.

General regulation - making powers

- 8 (1) Regulations may provide—
- (a) for requiring persons to maintain, in such form and manner as may be prescribed, records—
 - (i) of the earnings paid by them to and in respect of earners, and
 - (ii) of the contributions paid or payable in respect of earnings so paid, for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed;
 - (b) for requiring persons to maintain, in such form and manner as may be prescribed, records of such matters as may be prescribed for the purpose of enabling the incidence of liability for Class 1A contributions to be determined, and to retain the records for so long as may be prescribed;
 - (c) for treating primary Class 1 contributions, when payable on the primary contributor’s behalf by the secondary contributor, but not paid, as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the primary

contributor and, in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period;

- (d) for treating, for the purpose of any entitlement to benefit, contributions paid at or after any prescribed time as paid at some other time (whether earlier or later) or, in the case of contributions paid after the due date for payment, or at such later date as may be prescribed, as not having been paid;
- (e) for enabling contributions to be treated as paid in respect of a tax year earlier or later than that in respect of which they were actually paid;
- (f) for treating (for the purposes of Class 2 contributions) a week which falls partly in one, and partly in another, tax year as falling wholly within one or the other of those tax years;
- (g) for treating contributions of the wrong class, or at the wrong rate, or of the wrong amount, as paid on account of contributions properly payable (notwithstanding section 14 above, in the case of Class 3 contributions) or as paid (wholly or in part) in discharge of a liability for a state scheme premium;
- (h) for the repayment, in prescribed cases, of the whole or a prescribed part of any contributions paid by reference to earnings which have become repayable;
- (i) for the repayment, in prescribed cases, of a prescribed part of any Class 1A contribution as to which the Department is satisfied in the light of information of a kind mentioned in section 10(6)(a), (b) or (c) above that has become available to it, that too much has been paid;
- (j) for the repayment, on the making of an application in the prescribed manner and within the prescribed time, of Class 2 contributions paid by a person in respect of a period which consists of, or falls within, a tax year for which his earnings from employment as a self-employed earner were, or were such as to be treated by regulations under subsection (4) of section 11 above as being, at a lower rate than the one specified in that subsection for that year;
- (k) for excepting a person from liability for contributions repaid by virtue of paragraph (j) above, to the extent that he would not have been so excepted by virtue of section 11(4) above;
- (l) without prejudice to paragraph (g) above, for enabling—
 - (i) the whole or part of any payment of secondary Class 1 contributions to be treated as a payment of Class 1A contributions;
 - (ii) the whole or part of any payment of Class 1A contributions to be treated as a payment of secondary Class 1 contributions or Class 2 contributions;
 - (iii) the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions or Class 1A contributions;
- (m) for the return of the whole or any prescribed part of any contributions paid either in error or in such circumstances that, under any provision of Part I of this Act or of regulations, they fall to be repaid;
- (n) for treating a person as being an employed earner, notwithstanding that his employment is outside Northern Ireland;
- (o) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed;
- (p) for requiring persons to apply to the Department for the allocation of a national insurance number;

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- (q) for any other matters incidental to the payment, collection or return of contributions.
- (2) Regulations made by the Department under sub-paragraph (1) above providing for the payment of Class 2 or Class 3 contributions (at the option of the persons liable to pay) either—
 - (a) by means of adhesive stamps; or
 - (b) by some alternative method, the use of which involves greater expense in administration to the government departments concerned than would be incurred if the contributions were paid by means of such stamps,may include provision for the payment to the Department by any person who adopts any alternative method, and for the recovery by the Department, of the prescribed fees in respect of any difference in the expense in administration.
- (3) Where under regulations made by virtue of sub-paragraph (1) above contributions are payable by means of adhesive stamps, the Department—
 - (a) may, with the consent of the Department of Finance and Personnel, arrange for the preparation and sale of those stamps, and
 - (b) may by regulations provide for applying, with the necessary modifications as respects those stamps, all or any of the provisions of the Stamp Duties Management Act 1891, section 9 of the Stamp Act 1891 and section 63 of the Post Office Act 1953.
- 9 Regulations may provide that—
 - (a) for the purpose of determining whether a contribution is payable in respect of any person, or
 - (b) for determining the amount or rate of any contribution,he is to be treated as having attained at the beginning of a week, or as not having attained until the end of a week, any age which he attains during the course of that week.

Sickness payments counting as remuneration

- 10 (1) Regulations may make provision as to the manner in which, and the person through whom, any sickness payment which, by virtue of section 4(1) above, is to be treated as remuneration derived from employed earner's employment is to be made.
- (2) In any case where regulations made under sub-paragraph (1) above have the effect of requiring a registered friendly society (within the meaning of the Friendly Societies Act (Northern Ireland) 1970) to make amendments to its rules, the amendments may, notwithstanding any provision of those rules, be made in accordance with the procedure prescribed by regulations made by the Registrar of Friendly Societies for Northern Ireland for the purposes of this paragraph.
- (3) Regulations made under sub-paragraph (2) above shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.