

SCHEDULES

SCHEDULE 2

Section 2.

TRANSFER OF FUNCTIONS

PART I

PROVISIONS CONFERRING FUNCTIONS TRANSFERRED TO TREASURY

- 1 In the Social Security Contributions and Benefits Act 1992—
 - (a) section 45A(2)(a) (calculation of additional pension);
 - (b) section 123(1)(b) and (c) (power to prescribe schemes for working families' tax credit and disabled person's tax credit);
 - (c) section 128 (entitlement to working families' tax credit etc.);
 - (d) section 129 (entitlement to disabled person's tax credit etc.);
 - (e) section 134(1) and (2) (exclusions from benefit based on capital or entitlement to other benefits);
 - (f) section 135(1) and (2) (applicable amount);
 - (g) section 136 (income and capital).
- 2 Section 150 (annual uprating of benefits) of the Social Security Administration Act 1992.
- 3 In the Social Security Contributions and Benefits (Northern Ireland) Act 1992—
 - (a) section 45A(2)(a) (calculation of additional pension);
 - (b) section 122(1)(b) and (c) (power to prescribe schemes for working families' tax credit and disabled person's tax credit);
 - (c) section 127 (entitlement to working families' tax credit etc.);
 - (d) section 128 (entitlement to disabled person's tax credit etc.);
 - (e) section 130(1) and (2) (exclusions from benefit based on capital or entitlement to other benefits);
 - (f) section 131(1) and (2) (applicable amount);
 - (g) section 132 (income and capital).
- 4 Section 132 (annual uprating of benefits) of the Social Security Administration (Northern Ireland) Act 1992.

PART II

PROVISIONS CONFERRING FUNCTIONS TRANSFERRED TO OFFICERS OF BOARD

- 5 In the Social Security Act 1998—
 - (a) section 1(a) (certain functions transferred to Secretary of State); and
 - (b) in Chapter II of Part I—

Status: This is the original version (as it was originally enacted).

- (i) section 8(1)(a) and (c) (certain decisions);
- (ii) so much of section 9(1) as confers power to revise decisions under section 8 of that Act; and
- (iii) section 11(2) and (3) (questions of fact requiring special expertise).

- 6 In the Social Security (Northern Ireland) Order 1998—
- (a) Article 3(a) (certain functions transferred to Department); and
 - (b) in Chapter II of Part II—
 - (i) Article 9(1)(a) and (c) (certain decisions);
 - (ii) so much of Article 10(1) as confers power to revise decisions under Article 9 of that Order; and
 - (iii) Article 12(2) and (3) (questions of fact requiring special expertise).

PART III

PROVISIONS CONFERRING FUNCTIONS TRANSFERRED TO BOARD

- 7 Such of the provisions of—
- (a) the Social Security Contributions and Benefits Act 1992;
 - (b) the Social Security Administration Act 1992, except Part XIII (advisory bodies and consultation);
 - (c) the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
 - (d) the Social Security Administration (Northern Ireland) Act 1992, except Part XII (advisory bodies and the duty to consult),
- as are not mentioned in Part I of this Schedule.
- 8 Such of the provisions of—
- (a) Chapter II of Part I of the Social Security Act 1998 (which makes provision about social security decisions and appeals); and
 - (b) Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (which makes similar provision for Northern Ireland),
- as are not mentioned in Part II of this Schedule.
- 9 Any subordinate legislation made under any of the provisions mentioned in Part I of this Schedule or this Part.

PART IV

MODIFICATION OF ENACTMENTS

- 10 (1) Section 71 of the Social Security Administration Act 1992 (overpayments: general), and section 69 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland), shall have effect in any case where the overpayment was made in respect of tax credit as if for subsections (8) and (9) there were substituted—
- “(8) An amount recoverable under subsection (1) above in any year of assessment—

Status: This is the original version (as it was originally enacted).

- (a) shall be treated for the purposes of Part VI of the Taxes Management Act 1970 (collection and recovery) as if it were tax charged in an assessment and due and payable;
- (b) shall be treated for the purposes of section 203(2)(a) of the Income and Corporation Taxes Act 1988 (PAYE) as if it were an underpayment of tax for a previous year of assessment.

(8A) Where—

- (a) an amount paid in respect of a claim is recoverable under subsection (1) above; and
- (b) a penalty has been imposed under section 9(1) of the Tax Credits Act 1999 (penalties for fraud etc.) on the ground that a person fraudulently or negligently made an incorrect statement or declaration in connection with that claim,

the amount shall carry interest at the rate applicable from the date on which it becomes recoverable until payment.

(9) The rate applicable for the purposes of subsection (8A) above shall be the rate from time to time prescribed under section 178 of the Finance Act 1989 for those purposes.”

(2) After paragraph (gg) of section 178(2) of the Finance Act 1989 (setting rates of interest) there shall be inserted—

“(gh) section 71(8A) of the Social Security Administration Act 1992, and section 69(8A) of the Social Security Administration (Northern Ireland) Act 1992, as they have effect in any case where the overpayment was made in respect of working families' tax credit or disabled person's tax credit;”.

11 The following sections—

- (a) section 110 of the Social Security Administration Act 1992 (appointment and powers of inspectors); and
- (b) section 104 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),

shall not apply to the extent that the provisions, matters or Acts concerned relate to tax credit or in any case where the benefit concerned is tax credit.

12 The following sections—

- (a) section 111 of the Social Security Administration Act 1992 (delay, obstruction etc. of inspector); and
- (b) section 105 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),

shall not apply in any case where the exercise of the power, or the question, information or document, relates to tax credit.

13 The following sections—

- (a) sections 111A and 112 of the Social Security Administration Act 1992 (dishonest and fraudulent representations); and
- (b) sections 105A and 106 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),

shall not apply in any case where the benefit or other payment or advantage is or relates to, or the failure to notify relates to, tax credit.

Status: This is the original version (as it was originally enacted).

- 14 The following sections—
- (a) section 113 of the Social Security Administration Act 1992 (breach of regulations); and
 - (b) section 107 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),
- shall not apply in the case of a provision relating to tax credit.
- 15 The following sections—
- (a) section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution); and
 - (b) section 109A of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),
- shall not apply in any case where the overpayment is in respect of tax credit.
- 16 The following sections—
- (a) sections 182A and 182B of the Social Security Administration Act 1992 (return and redirection of post); and
 - (b) sections 158A and 158B of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland),
- shall not apply in any case where the social security post, or the offences or the information the accuracy of which is to be checked, relates to tax credit.
- 17 The words “, family credit” shall cease to have effect in—
- (a) section 6(1) of the Child Support Act 1991 (recovery of child support maintenance from absent parent); and
 - (b) Article 9(1) of the Child Support (Northern Ireland) Order 1991 (corresponding provision for Northern Ireland).
- 18 (1) The words “Disability working allowance” shall cease to have effect in—
- (a) column 2 of Schedule 2 to the Social Security (Recovery of Benefits) Act 1997 (benefits which are listed benefits for the purposes of that Act); and
 - (b) column 2 of Schedule 2 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (benefits which are listed benefits for the purposes of that Order).
- (2) Nothing in sub-paragraph (1) above shall affect the operation of that Act or that Order in cases where the payments or likely payments referred to in section 1(1)(b) of that Act or, as the case may be, Article 3(1)(b) of that Order are for a payment period beginning before the commencement of that sub-paragraph.
- 19 The following provisions—
- (a) section 27 of the Social Security Act 1998 (restrictions on entitlement to benefit in certain cases of error); and
 - (b) Article 27 of the Social Security (Northern Ireland) Order 1998 (corresponding provision for Northern Ireland),
- shall not apply in any case where the determination relates to tax credit.

PART V

CONSEQUENTIAL PROVISIONS

References to Secretary of State etc.

- 20 In accordance with section 2(1) above—
- (a) section 175 of the Social Security Contributions and Benefits Act 1992 (regulations, orders etc.);
 - (b) section 176(3) of that Act (statutory instruments that are subject to negative procedure);
 - (c) section 189 of the Social Security Administration Act 1992 (regulations and orders);
 - (d) section 190(3) of that Act (certain statutory instruments subject to negative procedure);
 - (e) section 172(9) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (certain statutory instruments subject to negative procedure);
 - (f) section 132(1) of the Social Security Administration (Northern Ireland) Act 1992 (corresponding order for uprating of benefits);
 - (g) section 79(1) of the Social Security Act 1998 (regulations and orders); and
 - (h) section 80(2) of that Act (certain statutory instruments subject to negative procedure),
- shall be construed, in relation to tax credit, as if references in those provisions to the Secretary of State were references to the Treasury or, as the case may be, the Board.

- 21 In relation to tax credit, references in Chapter II of Part I of the Social Security Act 1998 (social security decisions and appeals) to a decision of the Secretary of State shall, where the context so requires in consequence of section 2(1) above, be construed as references to a decision of the Board or, as the case may be, an officer of the Board.

References to Department etc.

- 22 In accordance with section 2(1) above—
- (a) section 171(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
 - (b) section 165(1) of the Social Security Administration (Northern Ireland) Act 1992; and
 - (c) Article 74(1) of the Social Security (Northern Ireland) Order 1998 (regulations and orders),
- (which provide for regulations and orders to be made by the Department) shall be construed, in relation to tax credit, as if the references in those provisions to the Department were references, as the case may be, to the Treasury or the Board.
- 23 In relation to tax credit, references in Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) to a decision of the Department shall, where the context so requires in consequence of section 2(1) above, be construed as references to a decision of the Board or, as the case may be, an officer of the Board.

Status: This is the original version (as it was originally enacted).

Social Security Contributions and Benefits Act 1992

- 24 Section 123(2) of the Social Security Contributions and Benefits Act 1992 (public inspection of schemes prescribed under section 123(1)) shall be construed, in relation to tax credit, as if the reference to local offices of the Department of Social Security were a reference to offices of the Board.
- 25 Section 175(7) of that Act (regulations and orders exercisable only in conjunction with Treasury) does not apply in relation to regulations made by the Treasury by virtue of section 2(1) above.

Social Security Administration Act 1992

- 26 Sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) of section 165 of the Social Security Administration Act 1992 (which provides for adjustments between the National Insurance Fund and the Consolidated Fund) shall cease to have effect.
- 27 Section 189(8) of that Act (orders and regulations which require Treasury consent) does not apply in relation to orders made by the Treasury by virtue of section 2(1) above.

Social Security Contributions and Benefits (Northern Ireland) Act 1992

- 28 Section 122(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (public inspection of schemes prescribed under section 122(1)) shall be construed, in relation to tax credit, as if the reference to social security offices of the Department were a reference to offices of the Board.
- 29 Any power to make regulations conferred by the Social Security Contributions and Benefits (Northern Ireland) Act 1992 is exercisable, so far as it relates to tax credit, by statutory instrument; and section 171(2) of that Act (regulations etc. to be made by statutory rule) has effect subject to this paragraph.
- 30 Any power under any provision of that Act transferred to the Board by section 2(1) shall, if the Treasury so direct, be exercisable only in conjunction with them.

Social Security Administration (Northern Ireland) Act 1992

- 31 Any power to make regulations or orders conferred by the Social Security Administration (Northern Ireland) Act 1992 is exercisable, so far as it relates to tax credit, by statutory instrument; and section 165(3) of that Act (regulations and orders to be made by statutory rule) has effect subject to this paragraph.
- 32 A statutory instrument—
- (a) which contains (whether alone or with other provisions) regulations made under section 1(1) or (1C), 5(1) or 9(2) of the Social Security Administration (Northern Ireland) Act 1992 relating to tax credit; and
 - (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 33 A statutory instrument containing (whether alone or with other provisions) an order under section 132 of that Act increasing any sum prescribed for the purposes of section 127(5) (appropriate maximum working families' tax credit) or 128(8) (appropriate maximum disabled person's tax credit) of the Social Security

Status: This is the original version (as it was originally enacted).

Contributions and Benefits (Northern Ireland) Act 1992 shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House of Parliament.

34 (1) Paragraphs (a) and (b) of subsection (1) of section 145 of the Social Security Administration (Northern Ireland) Act 1992 (which provides for adjustments between the Northern Ireland National Insurance Fund and the Consolidated Fund of Northern Ireland) shall cease to have effect.

(2) In subsection (3) of that section, for “(a) to (d)” there shall be substituted “(c) or (d)”.

35 Any power under any provision of that Act transferred to the Board by section 2(1) above shall, if the Treasury so direct, be exercisable only in conjunction with them.

Social Security (Northern Ireland) Order 1998

36 Any power to make regulations conferred by the Social Security (Northern Ireland) Order 1998 is exercisable, so far as it relates to tax credit, by statutory instrument.

37 A statutory instrument containing (whether alone or with other provisions) regulations under Article 13(2) of that Order (persons with right of appeal to appeal tribunal) relating to tax credit shall not be made unless a draft of the instrument has been laid before Parliament and been approved by a resolution of each House of Parliament; and Article 75 of that Order (Assembly control of regulations) shall not apply to any such instrument.

38 A statutory instrument—

(a) which contains (whether alone or with other provisions) regulations made under any provision of that Order not mentioned in paragraph 37 above relating to tax credit; and

(b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament; and Article 75 of that Order shall not apply to any such instrument.