

SCHEDULES

SCHEDULE 1

Section 1(2).

PROVISION CONSEQUENTIAL ON RENAMING OF BENEFITS

- 1 In the enactments mentioned in paragraphs 2 to 6 below—
 - (a) for the words “family credit”, wherever they occur, there shall be substituted the words “working families' tax credit”; and
 - (b) for the words “disability working allowance”, wherever they occur, there shall be substituted the words “disabled person's tax credit”.
- 2 In the Social Security Contributions and Benefits Act 1992 the enactments are—
 - (a) section 30C(5) (days etc. of incapacity for work);
 - (b) section 42(1) (entitlement to certain benefits after period of employment etc.);
 - (c) section 45A(1) and (2) (effect of family credit and disability working allowance on earnings factor);
 - (d) section 68(10) (entitlement to severe disablement allowance);
 - (e) section 122(1) (meaning of “week” etc.);
 - (f) section 123(1)(b) and (c) (income related benefits);
 - (g) section 128(1) to (6) (family credit);
 - (h) section 129(1), (2), (2A)(a) and (5) to (9) (disability working allowance).
- 3 In the Social Security Administration Act 1992 the enactments are—
 - (a) section 5(2)(c) and (d) (regulations about claims etc.);
 - (b) section 11(1) (initial and repeat claims);
 - (c) section 71(11)(c) and (d) (overpayments);
 - (d) section 124(2)(b) (provisions relating to age, death and marriage);
 - (e) section 150(10)(b)(i) and (ii) (transitional provision in relation to uprating);
 - (f) section 163(2)(d)(ii) and (iii) (payment out of money provided by Parliament);
 - (g) section 179(5)(b) and (c) (reciprocal agreements with countries outside UK);
 - (h) section 191 (general interpretation).
- 4 In the Social Security Contributions and Benefits (Northern Ireland) Act 1992 the enactments are—
 - (a) section 30C(5) (days etc. of incapacity for work);
 - (b) section 42(1) (entitlement to certain benefits after period of employment etc.);
 - (c) section 45A(1) and (2) (effect of family credit and disability working allowance on earnings factor);
 - (d) section 68(10) (entitlement to severe disablement allowance);
 - (e) section 121(1) (meaning of “week” etc.);
 - (f) section 122(1)(b) and (c) (income related benefits);

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- (g) section 127(1) to (6) (family credit);
 - (h) section 128(1), (2), (2A)(a) and (5) to (9) (disability working allowance).
- 5 In the Social Security Administration (Northern Ireland) Act 1992 the enactments are—
- (a) section 5(2)(c) and (d) (regulations about claims etc.);
 - (b) section 9(1) (initial and repeat claims);
 - (c) section 69(11)(c) and (d) (overpayments);
 - (d) section 155(5)(b) and (c) (reciprocal agreements with countries outside UK);
 - (e) section 167 (interpretation).
- 6 In other legislation the enactments are—
- (a) note (a) to Part I of Schedule 6 to the Magistrates' Courts Act 1980 (fees to be taken by Clerks to Justices);
 - (b) section 70(2)(b) of the Transport Act 1982 (payments in respect of applicants for exemption from wearing seat belts);
 - (c) section 617(2)(a) of the Income and Corporation Taxes Act 1988 (benefits not treated as income for purposes of Income Tax Acts);
 - (d) in the Children Act 1989—
 - (i) section 17(9) (persons not liable to make repayments of assistance);
 - (ii) section 29(3) (persons not liable to pay certain charges);
 - (iii) paragraph 21(4) of Schedule 2 (persons not liable to contribute towards maintenance);
 - (e) Article 131(3)(b) of the Education Reform (Northern Ireland) Order 1989 (charges and remissions policies);
 - (f) in the Child Support Act 1991—
 - (i) section 47(3)(b) (fees);
 - (ii) section 54 (interpretation);
 - (g) in the Child Support (Northern Ireland) Order 1991—
 - (i) Article 2(2) (interpretation);
 - (ii) Article 44(2)(b) (fees);
 - (h) section 29(7)(a) and (b) of the Jobseekers Act 1995 (pilot schemes);
 - (i) section 24(2) of the Child Support Act 1995 (compensation payments);
 - (j) section 22(4)(a) of the Children (Scotland) Act 1995 (persons not liable to make repayments of assistance);
 - (k) in the Children (Northern Ireland) Order 1995;
 - (i) Article 2(2) (interpretation);
 - (ii) Article 18(9) (persons not liable to make repayments of assistance);
 - (iii) Article 24(3) (persons not liable to pay certain charges);
 - (iv) Article 39(4) (persons not liable to contribute towards maintenance);
 - (l) Article 17(2) of the Child Support (Northern Ireland) Order 1995 (compensation payments);
 - (m) Article 31(7)(a) and (b) of the Jobseekers (Northern Ireland) Order 1995 (pilot schemes);

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- (n) Article 25(2) of the Road Traffic (Northern Ireland) Order 1995 (payments in respect of applicants for exemption from wearing seat belts);
- (o) section 77(1)(e) of the Housing Grants, Construction and Regeneration Act 1996 (entitlement to home repair assistance);
- (p) section 457(4)(b)(ii) and (iv) of the Education Act 1996 (charges and remissions policies);
- (q) section 8(3)(d) and (e) of the Social Security Act 1998 (power of Secretary of State to decide claims);
- (r) Article 9(3)(d) and (e) of the Social Security (Northern Ireland) Order 1998 (power of Department to decide claims).

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.

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

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—
 - (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—

- (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

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- (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.
- 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.

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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

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.

SCHEDULE 3

Section 7.

RIGHTS OF EMPLOYEES NOT TO SUFFER UNFAIR DISMISSAL OR OTHER DETRIMENT

The right not to suffer detriment

1 (1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer, done on the ground that—

(a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 6(2)(a) or (c) above;

(b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under section 9 above, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right; or

(c) the employee is entitled, or will or may be entitled, to tax credit.

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

- (2) It is immaterial for the purposes of paragraph (a) or (b) of sub-paragraph (1) above—
- (a) whether or not the employee has the right; or
 - (b) whether or not the right has been infringed;
- but, for that sub-paragraph to apply, the claim to the right and, if applicable, the claim that it has been infringed, must be made in good faith.
- (3) Except where the employee is dismissed in circumstances in which—
- (a) by virtue of section 197 of the Employment Rights Act 1996 (fixed term contracts), Part X of that Act (unfair dismissal) does not apply to the dismissal; or
 - (b) in relation to Northern Ireland, by virtue of Article 240 of the Employment Rights (Northern Ireland) Order 1996 (corresponding provision for Northern Ireland), Part XI of that Order does not apply to the dismissal,
- this paragraph does not apply where the detriment in question amounts to dismissal within the meaning of that Part.

Enforcement of right not to suffer detriment

- 2 (1) An employee may present a complaint to an employment tribunal or, in Northern Ireland, an industrial tribunal that he has been subjected to a detriment in contravention of paragraph 1 above.
- (2) The provisions of—
- (a) sections 48(2) to (4) and 49 of the Employment Rights Act 1996 (complaints to employment tribunals and remedies); or
 - (b) in relation to Northern Ireland, Articles 71(2) to (4) and 72 of the Employment Rights (Northern Ireland) Order 1996 (complaints to industrial tribunals and remedies),
- shall apply in relation to a complaint under this paragraph as they apply in relation to a complaint under section 48 of that Act or Article 71 of that Order (as the case may be), but so that references in those provisions to the employer are construed in accordance with section 6 above.

Right of employee not to be unfairly dismissed: Great Britain

- 3 (1) After section 104A of the Employment Rights Act 1996 (the national minimum wage) there shall be inserted—

“104B Tax credit

- (1) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—
- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 6(2)(a) or (c) of the Tax Credits Act 1999;
 - (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under section 9 of that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right; or

- (c) the employee is entitled, or will or may be entitled, to working families' tax credit or disabled person's tax credit.
- (2) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above—
- (a) whether or not the employee has the right, or
- (b) whether or not the right has been infringed,
- but, for that subsection to apply, the claim to the right and, if applicable, the claim that it has been infringed must be made in good faith.”
- (2) In section 105 of that Act (redundancy as unfair dismissal) in subsection (1)(c) (which refers to any of subsections (2) to (7A) of that section applying) for “(7A)” there shall be substituted “(7B)” and after subsection (7A) there shall be inserted—
- “(7B) This subsection applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in subsection (1) of section 104B (read with subsection (2) of that section).”
- (3) In section 108 of that Act (exclusion of right: qualifying period of employment) in subsection (3) (cases where no qualifying period is required) the word “or” at the end of paragraph (gg) shall be omitted and after that paragraph there shall be inserted—
- “(gh) subsection (1) of section 104B (read with subsection (2) of that section) applies, or”.
- (4) In section 109 of that Act (exclusion of right: upper age limit) in subsection (2) (cases where upper age limit does not apply) the word “or” at the end of paragraph (gg) shall be omitted and after that paragraph there shall be inserted—
- “(gh) subsection (1) of section 104B (read with subsection (2) of that section) applies, or”.

Right of employee not to be unfairly dismissed: Northern Ireland

- 4 (1) After Article 135A of the Employment Rights (Northern Ireland) Order 1996 (the national minimum wage) there shall be inserted—

Tax credit

- “135B) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that—
- (a) any action was taken, or was proposed to be taken, by or on behalf of the employee with a view to enforcing, or otherwise securing the benefit of, a right conferred on the employee by regulations under section 6(2)(a) or (c) of the Tax Credits Act 1999;
- (b) a penalty was imposed on the employer, or proceedings for a penalty were brought against him, under section 9 of that Act, as a result of action taken by or on behalf of the employee for the purpose of enforcing, or otherwise securing the benefit of, such a right; or
- (c) the employee is entitled, or will or may be entitled, to working families' tax credit or disabled person's tax credit.

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

- (2) It is immaterial for the purposes of sub-paragraph (a) or (b) of paragraph (1) —
- (a) whether or not the employee has the right, or
 - (b) whether or not the right has been infringed;
- but, for that paragraph to apply, the claim to the right and, if applicable, the claim that it has been infringed must be made in good faith.”
- (2) In Article 137 of that Order (redundancy as unfair dismissal) after paragraph (6A) there shall be inserted—
- “(6B) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in paragraph (1) of Article 135B (read with paragraph (2) of that Article).”
- (3) In Article 140 of that Order (exclusion of right: qualifying period of employment) in paragraph (3) (cases where no qualifying period is required) after sub-paragraph (ff) there shall be inserted—
- “(fg) paragraph (1) of Article 135B (read with paragraph (2) of that Article) applies.”.
- (4) In Article 141 of that Order (exclusion of right: upper age limit) in paragraph (2) (cases where upper age limit does not apply) after sub-paragraph (ff) there shall be inserted—
- “(fg) paragraph (1) of Article 135B (read with paragraph (2) of that Article) applies.”.

Appeals to the Employment Appeal Tribunal

- 5 In section 21(1) of the Employment Tribunals Act 1996 (appeal from employment tribunal to Employment Appeal Tribunal on question of law arising under or by virtue of the enactments there specified) the word “or” at the end of paragraph (ff) shall be omitted and after that paragraph there shall be inserted—
- “(fg) the Tax Credits Act 1999, or”.

SCHEDULE 4

Section 10(4).

PENALTIES: PROCEDURE AND APPEALS

Determination of penalties by officer of Board

- 1 (1) Subject to sub-paragraph (2) below and except where proceedings for a penalty have been instituted under paragraph 5 below, an officer of the Board authorised by the Board for the purposes of this paragraph may make a determination—
- (a) imposing a penalty under section 9 above; and
 - (b) setting it at such amount as, in his opinion, is correct or appropriate.
- (2) Sub-paragraph (1) above does not apply where the penalty is imposed under subsection (3)(b) or (c) of section 9 above and is such a penalty as is mentioned in subsection (4)(a) of that section.

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

- (3) Notice of a determination of a penalty under this paragraph shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within which an appeal against the determination may be made.
- (4) After the notice of a determination under this paragraph has been served the determination shall not be altered except in accordance with this paragraph or on appeal.
- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this paragraph that the amount of a penalty determined under this paragraph is or has become insufficient, the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.

Provisions supplementary to paragraph 1

- 2 (1) Where a person who has incurred a penalty under section 9 above has died—
 - (a) a determination under paragraph 1 above which could have been made in relation to him may be made in relation to his personal representatives; and
 - (b) any penalty imposed on personal representatives by virtue of this sub-paragraph shall be a debt due from and payable out of his estate.
- (2) A penalty determined under paragraph 1 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of determination.
- (3) Part VI of the Taxes Management Act 1970 shall apply in relation to a penalty determined under paragraph 1 above as if it were tax charged in an assessment and due and payable.

Appeals against penalty determinations

- 3 (1) An appeal may be brought against the determination of a penalty under paragraph 1 above.
- (2) In the case of a penalty under section 9(1), (3)(a) or (5)(a) above—
 - (a) in Great Britain, the provisions of sections 12 to 15 of the Social Security Act 1998 shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against a decision under section 8 or 10 of that Act; or
 - (b) in Northern Ireland, the provisions of Articles 13 to 15 of the Social Security (Northern Ireland) Order 1998 and section 15 of the Social Security Act 1998 shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against a decision under Article 9 or 11 of that Order.
- (3) Except in the case of such a penalty, the provisions of the Taxes Management Act 1970 relating to appeals, except section 50(6) to (8), shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (4) On an appeal by virtue of sub-paragraph (3) above against the determination of a penalty under paragraph 1 above, the General or Special Commissioners may—
 - (a) if it appears to them that no penalty has been incurred, set the determination aside;

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- (b) if the amount determined appears to them to be appropriate, confirm the determination;
 - (c) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate; or
 - (d) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (5) An appeal from a decision of the Commissioners against the amount of a penalty which has been determined under paragraph 1 above or this paragraph shall lie, at the instance of the person liable to the penalty—
- (a) to the High Court; or
 - (b) in Scotland, to the Court of Session as the Court of Exchequer in Scotland;
- and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this paragraph.

Penalty proceedings before Commissioners

- 4 (1) An officer of the Board authorised by the Board for the purposes of this paragraph may commence proceedings for any penalty to which sub-paragraph (1) of paragraph 1 above does not apply by virtue of sub-paragraph (2) of that paragraph.
- (2) Proceedings under this paragraph shall be by way of information in writing, made to the General or Special Commissioners, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.
- (3) Part VI of the Taxes Management Act 1970 shall apply in relation to a penalty determined in proceedings under this paragraph as if it were tax charged in an assessment and due and payable.
- (4) An appeal against the determination of a penalty in proceedings under this paragraph shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland—
- (a) by any party on a question of law; and
 - (b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.
- (5) On any such appeal the court may—
- (a) if it appears that no penalty has been incurred, set the determination aside;
 - (b) if the amount determined appears to be appropriate, confirm the determination;
 - (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate; or
 - (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.

Penalty proceedings before court

- 5 (1) Where in the opinion of the Board the liability of any person for a penalty under section 9 above arises by reason of the fraud of that or any other person, proceedings

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for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.

- (2) Subject to sub-paragraph (3) below, proceedings under this paragraph shall be instituted—
 - (a) in England and Wales, in the name of the Attorney General;
 - (b) in Scotland, in the name of the Advocate General for Scotland; and
 - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Sub-paragraph (2) above shall not prevent proceedings under this paragraph being instituted (in England and Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act.
- (4) Any proceedings under this paragraph instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.
- (5) If in proceedings under this paragraph the court does not find that fraud is proved but considers that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.

Mitigation of penalties

- 6 The Board may in their discretion mitigate any penalty under section 9 above, or stay or compound any proceedings for a penalty, and may also, after judgment, further mitigate or entirely remit the penalty.

Time limits for penalties

- 7 (1) A penalty under section 9(1) above relating to a claim for tax credit may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the court—
 - (a) at any time within six years after the date on which the penalty was incurred; or
 - (b) at any later time within three years after the final determination of entitlement to the tax credit claimed.
- (2) Any other penalty under section 9 above may be so determined, or proceedings for the penalty may be commenced before an appeal tribunal or the court, at any time within six years after the date on which the penalty was incurred or began to be incurred.

Interest on penalties

- 8 (1) After paragraph (o) of section 178(2) of the Finance Act 1989 (setting rates of interest) there shall be inserted—
“*(p)* paragraph 8 of Schedule 4 to the Tax Credits Act 1999.”

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- (2) A penalty under section 9 above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date on which it becomes due and payable until payment.

SCHEDULE 5

Section 12(6).

USE AND EXCHANGE OF INFORMATION

Powers of Board to use information

- 1 (1) Information which is held—
- (a) by the Board; or
 - (b) by a person providing services to the Board, in connection with the provision of those services,
- for the purposes of any functions relating to tax credit may be used for the purposes of, or for any purposes connected with, the exercise of any such functions, and may be supplied to any person providing services to the Board for those purposes.
- (2) Information which is held—
- (a) by the Board; or
 - (b) by a person providing services to the Board, in connection with the provision of those services,
- for the purposes of any functions specified in either paragraph of sub-paragraph (3) below may be used for the purposes of, or for any purposes connected with, the exercise of any functions specified in the other paragraph of that sub-paragraph, and may be supplied to any person providing services to the Board for those purposes.
- (3) The functions referred to in sub-paragraph (2) above are—
- (a) functions relating to tax credit; and
 - (b) functions relating to tax, contributions, statutory sick pay or statutory maternity pay and functions under Part III of the Pension Schemes Act 1993 (certification of pension schemes etc.) or Part III of the Pension Schemes (Northern Ireland) Act 1993 (corresponding provision for Northern Ireland).
- (4) In this paragraph “contributions” means contributions under Part I of the Social Security Contributions and Benefits Act 1992 or Part I of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Exchange of information between Board and Secretary of State or Department: powers and duties

- 2 (1) This paragraph applies to information which is held for the purposes of functions relating to tax credit—
- (a) by the Board; or
 - (b) by a person providing services to the Board, in connection with the provision of those services.
- (2) Information to which this paragraph applies may, and must if an authorised officer so requires, be supplied—

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- (a) to the Secretary of State or the Department; or
 - (b) to a person providing services to the Secretary of State or the Department,for use for the purposes of functions relating to social security benefits, child support or war pensions.
- (3) In sub-paragraph (2) above, “authorised officer” means an officer of the Secretary of State or the Department authorised for the purposes of this paragraph by the Secretary of State or the Department.
- 3 (1) This paragraph applies to information which is held for the purposes of functions relating to social security benefits, child support or war pensions—
 - (a) by the Secretary of State or the Department; or
 - (b) by a person providing services to the Secretary of State or the Department, in connection with the provision of those services.
- (2) Information to which this paragraph applies may, and must if an officer of the Board authorised by the Board for the purposes of this paragraph so requires, be supplied—
 - (a) to the Board; or
 - (b) to a person providing services to the Board,for use for the purposes of functions relating to tax credit.
- (3) The reference in sub-paragraph (1) above to social security benefits does not include a reference to tax credit.

*Exchange of information between Board and authorities
administering certain benefits: powers and duties*

- 4 (1) This paragraph applies to information which is held for the purposes of functions relating to tax credit—
 - (a) by the Board; or
 - (b) by a person providing services to the Board, in connection with the provision of those services.
- (2) Information to which this paragraph applies may be supplied by or under the authority of the Board—
 - (a) to an authority administering housing benefit or council tax benefit; or
 - (b) to a person authorised to exercise any function of such an authority relating to such a benefit,for use in the administration of such a benefit.
- (3) Information supplied under sub-paragraph (2) above shall not be supplied by the recipient to any other person or body unless—
 - (a) it is supplied—
 - (i) by an authority to a person authorised to exercise any function of the authority relating to housing benefit or council tax benefit; or
 - (ii) by a person authorised to exercise any function of an authority relating to such a benefit to the authority;
 - (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 or the Jobseekers Act 1995 or to any provision of Northern Ireland legislation corresponding to any of them; or
 - (c) it is supplied under paragraph 5 below.

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- 5 (1) The Board may require—
- (a) an authority administering housing benefit or council tax benefit; or
 - (b) a person authorised to exercise any function of such an authority relating to such a benefit,
- to supply benefit administration information held by the authority or other person to, or to a person providing services to, the Board for use for any purpose relating to tax credit.
- (2) In sub-paragraph (1) above “benefit administration information”, in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to housing benefit or council tax benefit by the authority or other person.

Consequential amendments

- 6 (1) In subsection (1)(a) of section 122 of the Social Security Administration Act 1992 (supply of information held by tax authorities for fraud prevention and verification), after “121E above” there shall be inserted “or paragraph 2 of Schedule 5 to the Tax Credits Act 1999”.
- (2) In subsection (1)(a) of section 116 of the Social Security Administration (Northern Ireland) Act 1992 (corresponding provision for Northern Ireland), after “115D above” there shall be inserted “or paragraph 2 of Schedule 5 to the Tax Credits Act 1999”.
- 7 (1) Section 110 of the Finance Act 1997 (obtaining by Board and Commissioners of Customs and Excise of information from social security authorities) is amended as follows.
- (2) After subsection (5) there shall be inserted—
- “(5AA) The reference to social security benefits in subsection (5)(a) above does not include a reference to working families' tax credit or disabled person's tax credit.”
- (3) In subsection (5A), after “State)” there shall be inserted “or paragraph 3 of Schedule 5 to the Tax Credits Act 1999 (supply to Inland Revenue for purposes of tax credit of information so held)”.

SCHEDULE 6

Section 19(4).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1991 c. 23.	The Child Support Act 1991.	In section 6(1), the words “, family credit”. In section 46(11), the words “, family credit”.
S.I. 1991/2628 (N.I. 23).	The Child Support (Northern Ireland) Order 1991.	In Article 9(1), the words “, family credit”.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1992 c. 5.	The Social Security Administration Act 1992.	In Article 43(11), the words “, family credit”.
1992 c. 8.	The Social Security Administration (Northern Ireland) Act 1992.	Section 165(1)(a)(i) and (ii).
1996 c. 17.	The Employment Tribunals Act 1996.	Section 145(1)(a) and (b).
1997 c. 18.	The Employment Rights Act 1996.	In section 21(1), the word “or” at the end of paragraph (ff).
1997 c. 27.	The Social Security (Recovery of Benefits) Act 1997.	In section 108(3), the word “or” at the end of paragraph (gg).
S.I. 1997/1183 (N.I. 12).	The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.	In section 109(2), the word “or” at the end of paragraph (gg).
		In Schedule 2, in column 2, the words “Disability working allowance”.
		In Schedule 2, in column 2, the words “Disability working allowance”.
