



# Child Support, Pensions and Social Security Act 2000

## 2000 CHAPTER 19

### PART IV

#### NATIONAL INSURANCE CONTRIBUTIONS

##### *Great Britain*

#### **74 Contributions in respect of benefits in kind: Great Britain**

- (1) In section 1(2)(b) of the Social Security Contributions and Benefits Act 1992 (Class 1A contributions), the words “in respect of cars made available for private use and car fuel” shall be omitted.
- (2) For section 10 of that Act (Class 1A contributions) there shall be substituted—

##### **“10 Class 1A contributions: benefits in kind etc**

- (1) Where—
  - (a) for any tax year an earner is chargeable to income tax under Schedule E on an amount which for the purposes of the Income Tax Acts is or falls to be treated as an emolument received by him from any employment (“the relevant employment”),
  - (b) the relevant employment is both employed earner’s employment and employment to which Chapter II of Part V of the 1988 Act (employment as a director or with annual emoluments of more than £8,500) applies, and
  - (c) the whole or a part of the emolument falls, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner,

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a Class 1A contribution shall be payable for that tax year, in accordance with this section, in respect of that earner and so much of the emolument as falls to be so left out of account.

- (2) Subject to section 10ZA below, a Class 1A contribution for any tax year shall be payable by—
- (a) the person who is liable to pay the secondary Class 1 contribution relating to the last (or only) relevant payment of earnings in that tax year in relation to which there is a liability to pay such a Class 1 contribution; or
  - (b) if paragraph (a) above does not apply, the person who, if the emolument in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.
- (3) In subsection (2) above “relevant payment of earnings” means a payment which for the purposes of Class 1 contributions is a payment of earnings made to or for the benefit of the earner in respect of the relevant employment.
- (4) The amount of the Class 1A contribution in respect of any emolument shall be the Class 1A percentage of so much of it as falls to be left out of account as mentioned in subsection (1)(c) above.
- (5) In subsection (4) above “the Class 1A percentage” means a percentage rate equal to the percentage rate specified as the secondary percentage in section 9(2) above for the tax year in question.
- (6) No Class 1A contribution shall be payable for any tax year in respect of so much of any emolument as is taken for the purposes of the making of Class 1B contributions for that year to be included in a PAYE settlement agreement.
- (7) For the purposes of this section—
- (a) the amounts which for the purposes of the Income Tax Acts are or fall to be treated as emoluments received by an earner from any employment shall be determined (subject to paragraph (b) below) disregarding sections 198, 201, 201AA and 332(3) of the 1988 Act (deductions for expenses etc.); but
  - (b) where an amount which is deductible in respect of any matter under any of those sections is at least equal to the whole of any corresponding amount which (but for this paragraph) would fall by reference to that matter to be included in those emoluments, the whole of the corresponding amount shall be treated as not so included.
- (8) The Treasury may by regulations—
- (a) modify the effect of subsection (7) above by adding any enactment contained in the Income Tax Acts to the list of sections of the 1988 Act contained in paragraph (a) of that subsection; or
  - (b) make such amendments of subsection (7) above as appear to them to be necessary or expedient in consequence of any alteration of the provisions of the Income Tax Acts relating to the charge to tax under Schedule E.
- (9) The Treasury may by regulations provide—

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- (a) for Class 1A contributions not to be payable, in prescribed circumstances, by prescribed persons or in respect of prescribed persons or emoluments;
  - (b) for reducing Class 1A contributions in prescribed circumstances.
- (10) In this section “the 1988 Act” means the Income and Corporation Taxes Act 1988.”
- (3) For subsection (6) of section 4 of that Act (power to treat emoluments in respect of share acquisitions etc. as earnings) there shall be substituted—
  - “(6) Regulations may make provision for the purposes of this Part—
    - (a) for treating any amount on which an employed earner is chargeable to income tax under Schedule E as remuneration derived from the earner’s employment; and
    - (b) for treating any amount which in accordance with regulations under paragraph (a) above constitutes remuneration as an amount of remuneration paid, at such time as may be determined in accordance with the regulations, to or for the benefit of the earner in respect of his employment.”
- (4) In paragraph 5(b) of Schedule 1 to that Act (power to modify section 10 for cases where a car is made available by reason of more than one employment), for “a car is made available” there shall be substituted “something is provided or made available”.
- (5) In paragraph 8(1)(ia) of that Schedule (power to provide by regulations for repayment in prescribed cases of the whole or a part of a Class 1B contribution), after “part” there shall be inserted “of a Class 1A or”.
- (6) In section 120(4) of the Social Security Administration Act 1992 (proof of previous offences relating to Class 1A contributions), for “car” there shall be substituted “amount”.
- (7) In section 162(5)(c) of that Act (appropriate national health service allocation of Class 1A contributions), for “cash equivalents of the benefits of the cars and car fuel” there shall be substituted “emoluments”.
- (8) This section shall have effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years.
- (9) Regulations made by statutory instrument under any power conferred by virtue of this section may be made so as to have retrospective effect in relation to any time in the tax year in which they are made (including, in the case of regulations made in the tax year in which this Act is passed, any time in that tax year before the passing of this Act).

## **75 Third party providers of benefits in kind: Great Britain**

- (1) After section 10 of the Social Security Contributions and Benefits Act 1992 there shall be inserted—

### **“10ZA Liability of third party provider of benefits in kind**

- (1) This section applies, where—
  - (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of an emolument received by an earner;

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- (b) the emolument, in so far as it is one in respect of which such a contribution is payable, consists in a benefit provided for the earner or a member of his family or household;
- (c) the person providing the benefit is a person other than the person (“the relevant employer”) by whom, but for this section, the Class 1A contribution would be payable in accordance with section 10(2) above; and
- (d) the provision of the benefit by that other person has not been arranged or facilitated by the relevant employer.

(2) For the purposes of this Act if—

- (a) the person providing the benefit pays an amount for the purpose of discharging any liability of the earner to income tax for any tax year, and
- (b) the income tax in question is tax chargeable in respect of the provision of the benefit or of the making of the payment itself,

the amount of the payment shall be treated as if it were an emolument consisting in the provision of a benefit to the earner in that tax year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner.

(3) Subject to subsection (4) below, the liability to pay any Class 1A contribution in respect of—

- (a) the benefit provided to the earner, and
- (b) any further benefit treated as so provided in accordance with subsection (2) above,

shall fall on the person providing the benefit, instead of on the relevant employer.

(4) Subsection (3) above applies in the case of a Class 1A contribution for the tax year beginning with 6th April 2000 only if the person providing the benefit in question gives notice in writing to the Inland Revenue on or before 6th July 2001 that he is a person who provides benefits in respect of which a liability to Class 1A contributions is capable of falling by virtue of this section on a person other than the relevant employer.

(5) The Treasury may by regulations make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Act as having arranged or facilitated the provision of any benefit.

(6) In this section references to a member of a person’s family or household shall be construed in accordance with section 168(4) of the Income and Corporation Taxes Act 1988.

### **10ZB Non-cash vouchers provided by third parties**

(1) In section 10ZA above references to the provision of a benefit include references to the provision of a non-cash voucher.

(2) Where—

- (a) a non-cash voucher is received by any person from employment to which Chapter II of Part V of the Income and Corporation Taxes Act 1988 does not apply, and

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- (b) the case would be one in which the conditions in section 10ZA(1) (a) to (d) above would be satisfied in relation to the provision of that voucher if that Chapter did apply to that employment,  
sections 10 and 10ZA above shall have effect in relation to the provision of that voucher, and to any such payment in respect of the provision of that voucher as is mentioned in section 10ZA(2) above, as if that employment were employment to which that Chapter applied.
- (3) In this section “non-cash voucher” has the same meaning as in section 141 of the Income and Corporation Taxes Act 1988.”
- (2) After subsection (3) of section 110ZA of the Social Security Administration Act 1992 (premises liable to inspection) there shall be inserted—
- “(3A) The references in subsection (3) above to a trade or business include references to the administration of any scheme for the provision of benefits to persons by reason of their employment.”
- (3) Subsection (1) shall have effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years.
- (4) Regulations made by virtue of this section under section 10ZA(5) of the Social Security Contributions and Benefits Act 1992 may be made so as to have retrospective effect in relation to any time in the tax year in which they are made (including, in the case of regulations made in the tax year in which this Act is passed, any time in that tax year before the passing of this Act).

## **76 Collection etc. of NICs: Great Britain**

- (1) Schedule 1 to the Social Security Contributions and Benefits Act 1992 (supplementary provisions relating to contributions) shall be amended in accordance with subsections (2) to (5).
- (2) In paragraph 7(2)(b) (application of sections 100 to 100D and 102 to 104 of the Taxes Management Act 1970 in relation to certain penalties), for “104” there shall be substituted “105”.
- (3) For sub-paragraph (2)(e) of paragraph 7B (power to provide for interest to be charged on late payment in the case of payment outside the PAYE system) there shall be substituted—
- “(e) require interest to be paid on contributions that are not paid by the due date, and provide for determining the date from which such interest is to be calculated;”.
- (4) After sub-paragraph (5) of that paragraph there shall be inserted—
- “(5A) Regulations under this paragraph may, in relation to any penalty imposed by such regulations, make provision applying (with or without modifications) any enactment applying for the purposes of income tax that is contained in Part X of the Taxes Management Act 1970 (penalties).”
- (5) After that paragraph there shall be inserted—
- “(7BA) The Inland Revenue may by regulations provide for amounts in respect of contributions or interest that fall to be paid or repaid in accordance with any regulations under this Schedule to be set off, or to be capable of being set

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off, in prescribed circumstances and to the prescribed extent, against any such liabilities under regulations under this Schedule of the person entitled to the payment or repayment as may be prescribed.”

- (6) In section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (decisions to be made by an Inland Revenue officer and appealable under section 11)—
- (a) paragraph (j) (interest under regulations made by virtue of paragraph 7B(2)(e) of Schedule 1 to the Social Security Contributions and Benefits Act 1992) shall cease to have effect; and
  - (b) in paragraph (l), for “paragraphs (j) and (k)” there shall be substituted “paragraph (k)”, and the words “amount of interest or” shall be omitted.
- (7) Subsection (6) has effect in relation to interest accruing on sums becoming due in respect of the tax year beginning with 6th April 2000 or any subsequent tax year.

## 77 Liability of earner for secondary contributions: Great Britain

- (1) In paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (prohibition on deduction or recovery of Class 1 contributions), sub-paragraph (2) shall be omitted.
- (2) After that paragraph there shall be inserted—

### *“Prohibition on recovery of employer’s contributions*

- 3A (1) Subject to sub-paragraph (2) below, a person who is or has been liable to pay any secondary Class 1 or any Class 1A or Class 1B contributions shall not—
- (a) make, from earnings paid by him, any deduction in respect of any such contributions for which he or any other person is or has been liable;
  - (b) otherwise recover any such contributions (directly or indirectly) from any person who is or has been a relevant earner; or
  - (c) enter into any agreement with any person for the making of any such deduction or otherwise for the purpose of so recovering any such contributions.
- (2) Sub-paragraph (1) above does not apply to the extent that an agreement between—
- (a) a secondary contributor, and
  - (b) any person (“the earner”) in relation to whom the secondary contributor is, was or will be such a contributor in respect of the contributions to which the agreement relates,
- allows the secondary contributor to recover (whether by deduction or otherwise) the whole or any part of any secondary Class 1 contribution payable in respect of a gain that is treated as remuneration derived from that earner’s employment by virtue of section 4(4)(a) above.
- (3) Sub-paragraph (2) above does not authorise any recovery (whether by deduction or otherwise)—
- (a) in pursuance of any agreement entered into before 19th May 2000; or

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(b) in respect of any liability to a contribution arising before the day of the passing of the Child Support, Pensions and Social Security Act 2000.

(4) In this paragraph—

“agreement” includes any arrangement or understanding (whether or not legally enforceable); and

“relevant earner”, in relation to a person who is or has been liable to pay any contributions, means an earner in respect of whom he is or has been so liable.

*Transfer of liability to be borne by earner*

3B (1) This paragraph applies where—

(a) an election is jointly made by—

(i) a secondary contributor, and

(ii) a person (“the earner”) in relation to whom the secondary contributor is or will be such a contributor in respect of contributions on share option gains by the earner,

for the whole or a part of any liability of the secondary contributor to contributions on any such gains to be transferred to the earner; and

(b) the election is one in respect of which the Inland Revenue have, before it was made, given by notice to the secondary contributor their approval to both—

(i) the form of the election; and

(ii) the arrangements made in relation to the proposed election for securing that the liability transferred by the election will be met.

(2) Any liability which—

(a) arises while the election is in force, and

(b) is a liability to pay the contributions on share option gains by the earner, or the part of them, to which the election relates,

shall be treated for the purposes of this Act, the Administration Act and Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 as a liability falling on the earner, instead of on the secondary contributor.

(3) Subject to sub-paragraph (7)(b) below, an election made for the purposes of sub-paragraph (1) above shall continue in force from the time when it is made until whichever of the following first occurs, namely—

(a) it ceases to have effect in accordance with its terms;

(b) it is revoked jointly by both parties to the election;

(c) notice is given to the earner by the secondary contributor terminating the effect of the election.

(4) An approval given to the secondary contributor for the purposes of sub-paragraph (1)(b) above may be given either—

(a) for an election to be made by the secondary contributor and a particular person; or

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- (b) for all elections to be made, or to be made in particular circumstances, by the secondary contributor and particular persons or by the secondary contributor and persons of a particular description.
- (5) The grounds on which the Inland Revenue shall be entitled to refuse an approval for the purposes of sub-paragraph (1)(b) above shall include each of the following—
  - (a) that it appears to the Inland Revenue that adequate arrangements have not been made for securing that the liabilities transferred by the proposed election or elections will be met by the person or persons to whom they would be so transferred; and
  - (b) that it appears to the Inland Revenue that they do not have sufficient information to determine whether or not grounds falling within paragraph (a) above exist.
- (6) If, at any time after they have given an approval for the purposes of sub-paragraph (1)(b) above, it appears to the Inland Revenue—
  - (a) that the arrangements that were made or are in force for securing that liabilities transferred by elections to which the approval relates are met are proving inadequate or unsatisfactory in any respect, or
  - (b) that any election to which the approval relates has resulted, or is likely to result, in the avoidance or non-payment of the whole or any part of any secondary Class 1 contributions,the Inland Revenue may withdraw the approval by notice to the secondary contributor.
- (7) The withdrawal by the Inland Revenue of any approval given for the purposes of sub-paragraph (1)(b) above—
  - (a) may be either general or confined to a particular election or to particular elections; and
  - (b) shall have the effect that the election to which the withdrawal relates has no effect on contributions on share option gains in respect of any right to acquire shares obtained after—
    - (i) the date on which notice of the withdrawal of the approval is given; or
    - (ii) such later date as the Inland Revenue may specify in that notice.
- (8) Where the Inland Revenue have refused or withdrawn their approval for the purposes of sub-paragraph (1)(b) above, the person who applied for it or, as the case may be, to whom it was given may appeal to the Special Commissioners against the Inland Revenue's decision.
- (9) On an appeal under sub-paragraph (8) above the Special Commissioners may—
  - (a) dismiss the appeal;
  - (b) remit the decision appealed against to the Inland Revenue with a direction to make such decision as the Special Commissioners think fit; or



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- (c) in the case of a decision to withdraw an approval, quash that decision and direct that that decision is to be treated as never having been made.
- (10) Subject to sub-paragraph (12) below, an election under sub-paragraph (1) above shall not apply to any contributions in respect of gains realised before it was made.
- (11) Regulations made by the Inland Revenue may make provision with respect to the making of elections for the purposes of this paragraph and the giving of approvals for the purposes of sub-paragraph (1)(b) above; and any such regulations may, in particular—
  - (a) prescribe the matters that must be contained in such an election;
  - (b) provide for the manner in which such an election is to be capable of being made and of being confined to particular liabilities or the part of particular liabilities; and
  - (c) provide for the making of applications for such approvals and for the manner in which those applications are to be dealt with.
- (12) Where—
  - (a) an election is made under this paragraph before the end of the period of three months beginning with the date of the passing of the Child Support, Pensions and Social Security Act 2000, and
  - (b) that election is expressed to relate to liabilities for contributions arising on or after 19th May 2000 and before the making of the election,

this paragraph shall have effect in relation to those liabilities as if sub-paragraph (2) above provided for them to be deemed to have fallen on the earner (instead of on the secondary contributor); and the secondary contributor shall accordingly be entitled to reimbursement from the earner for any payment made by that contributor in or towards the discharge of any of those liabilities.
- (13) In this paragraph references to contributions on share option gains by the earner are references to any secondary Class 1 contributions payable in respect of a gain that is treated as remuneration derived from the earner's employment by virtue of section 4(4)(a) above.
- (14) In this paragraph “the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts.”
- (3) In section 6(4) of that Act (persons by whom Class 1 contributions are payable), for the words from “paragraph 3” onwards there shall be substituted “paragraphs 3 to 3B of Schedule 1 to this Act.”
- (4) In paragraph 8(1) of Schedule 1 to that Act (general regulations), after paragraph (c) there shall be inserted—
  - “(ca) for requiring a secondary contributor to notify a person to whom any of his liabilities are transferred by an election under paragraph 3B above of—
    - (i) any transferred liability that arises;
    - (ii) the amount of any transferred liability that arises; and

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- (iii) the contents of any notice of withdrawal by the Inland Revenue of any approval that relates to that election;”.
- (5) In section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (decisions to be taken by officers of the Inland Revenue), after paragraph (i) there shall be inserted—
- “(ia) to decide whether to give or withdraw an approval for the purposes of paragraph 3B(1)(b) of Schedule 1 to the Social Security Contributions and Benefits Act 1992;”.
- (6) In section 10 of that Act of 1999 (regulations about varying or superseding decisions), at the beginning of subsection (1) there shall be inserted “Subject to subsection (2A) below,”, and after subsection (2) there shall be inserted—
- “(2A) The decisions in relation to which provision may be made by regulations under this section shall not include decisions falling within section 8(1)(ia) above.”
- (7) In section 12(4) of that Act of 1999 (appeals to be heard by General Commissioners), after “Subject to” there shall be inserted “paragraph 3B(8) of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (which provides for appeals under that paragraph to be heard by the Special Commissioners), to”.

#### *Northern Ireland*

### **78 Contributions in respect of benefits in kind: Northern Ireland**

- (1) In section 1(2)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Class 1A contributions), the words “in respect of cars made available for private use and car fuel” shall be omitted.
- (2) For section 10 of that Act (Class 1A contributions) there shall be substituted—

#### **“10 Class 1A contributions: benefits in kind etc**

- (1) Where—
- (a) for any tax year an earner is chargeable to income tax under Schedule E on an amount which for the purposes of the Income Tax Acts is or falls to be treated as an emolument received by him from any employment (“the relevant employment”),
  - (b) the relevant employment is both employed earner’s employment and employment to which Chapter II of Part V of the 1988 Act (employment as a director or with annual emoluments of more than £8,500) applies, and
  - (c) the whole or a part of the emolument falls, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner,
- a Class 1A contribution shall be payable for that tax year, in accordance with this section, in respect of that earner and so much of the emolument as falls to be so left out of account.
- (2) Subject to section 10ZA below, a Class 1A contribution for any tax year shall be payable by—

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- (a) the person who is liable to pay the secondary Class 1 contribution relating to the last (or only) relevant payment of earnings in that tax year in relation to which there is a liability to pay such a Class 1 contribution; or
  - (b) if paragraph (a) above does not apply, the person who, if the emolument in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.
- (3) In subsection (2) above “relevant payment of earnings” means a payment which for the purposes of Class 1 contributions is a payment of earnings made to or for the benefit of the earner in respect of the relevant employment.
- (4) The amount of the Class 1A contribution in respect of any emolument shall be the Class 1A percentage of so much of it as falls to be left out of account as mentioned in subsection (1)(c) above.
- (5) In subsection (4) above “the Class 1A percentage” means a percentage rate equal to the percentage rate specified as the secondary percentage in section 9(2) above for the tax year in question.
- (6) No Class 1A contribution shall be payable for any tax year in respect of so much of any emolument as is taken for the purposes of the making of Class 1B contributions for that year to be included in a PAYE settlement agreement.
- (7) For the purposes of this section—
- (a) the amounts which for the purposes of the Income Tax Acts are or fall to be treated as emoluments received by an earner from any employment shall be determined (subject to paragraph (b) below) disregarding sections 198, 201, 201AA and 332(3) of the 1988 Act (deductions for expenses etc.); but
  - (b) where an amount which is deductible in respect of any matter under any of those sections is at least equal to the whole of any corresponding amount which (but for this paragraph) would fall by reference to that matter to be included in those emoluments, the whole of the corresponding amount shall be treated as not so included.
- (8) The Treasury may by regulations—
- (a) modify the effect of subsection (7) above by adding any enactment contained in the Income Tax Acts to the list of sections of the 1988 Act contained in paragraph (a) of that subsection; or
  - (b) make such amendments of subsection (7) above as appear to them to be necessary or expedient in consequence of any alteration of the provisions of the Income Tax Acts relating to the charge to tax under Schedule E.
- (9) The Treasury may by regulations provide—
- (a) for Class 1A contributions not to be payable, in prescribed circumstances, by prescribed persons or in respect of prescribed persons or emoluments;
  - (b) for reducing Class 1A contributions in prescribed circumstances.
- (10) In this section “the 1988 Act” means the Income and Corporation Taxes Act 1988.”

- (3) For subsection (6) of section 4 of that Act (power to treat emoluments in respect of share acquisitions etc. as earnings) there shall be substituted—
- “(6) Regulations may make provision for the purposes of this Part—
- (a) for treating any amount on which an employed earner is chargeable to income tax under Schedule E as remuneration derived from the earner’s employment; and
  - (b) for treating any amount which in accordance with regulations under paragraph (a) above constitutes remuneration as an amount of remuneration paid, at such time as may be determined in accordance with the regulations, to or for the benefit of the earner in respect of his employment.”
- (4) In paragraph 5(b) of Schedule 1 to that Act (power to modify section 10 for cases where a car is made available by reason of more than one employment), for “a car is made available” there shall be substituted “something is provided or made available”.
- (5) In paragraph 8(1)(ia) of that Schedule (power to provide by regulations for repayment in prescribed cases of the whole or a part of a Class 1B contribution), after “part” there shall be inserted “of a Class 1A or”.
- (6) In section 114(4) of the Social Security Administration (Northern Ireland) Act 1992 (proof of previous offences relating to Class 1A contributions), for “car” there shall be substituted “amount”.
- (7) In section 142(5)(c) of that Act (appropriate health service allocation of Class 1A contributions), for “cash equivalents of the benefits of the cars and car fuel” there shall be substituted “emoluments”.
- (8) This section shall have effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years.
- (9) Regulations made by statutory instrument under any power conferred by virtue of this section may be made so as to have retrospective effect in relation to any time in the tax year in which they are made (including, in the case of regulations made in the tax year in which this Act is passed, any time in that tax year before the passing of this Act).

## **79 Third party providers of benefits in kind: Northern Ireland**

- (1) After section 10 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 there shall be inserted—

### **“10ZA Liability of third party provider of benefits in kind**

- (1) This section applies, where—
- (a) a Class 1A contribution is payable for any tax year in respect of the whole or any part of an emolument received by an earner;
  - (b) the emolument, in so far as it is one in respect of which such a contribution is payable, consists in a benefit provided for the earner or a member of his family or household;
  - (c) the person providing the benefit is a person other than the person (“the relevant employer”) by whom, but for this section, the Class

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- 1A contribution would be payable in accordance with section 10(2) above; and
- (d) the provision of the benefit by that other person has not been arranged or facilitated by the relevant employer.
- (2) For the purposes of this Act if—
- (a) the person providing the benefit pays an amount for the purpose of discharging any liability of the earner to income tax for any tax year, and
- (b) the income tax in question is tax chargeable in respect of the provision of the benefit or of the making of the payment itself,
- the amount of the payment shall be treated as if it were an emolument consisting in the provision of a benefit to the earner in that tax year and falling, for the purposes of Class 1 contributions, to be left out of account in the computation of the earnings paid to or for the benefit of the earner.
- (3) Subject to subsection (4) below, the liability to pay any Class 1A contribution in respect of—
- (a) the benefit provided to the earner, and
- (b) any further benefit treated as so provided in accordance with subsection (2) above,
- shall fall on the person providing the benefit, instead of on the relevant employer.
- (4) Subsection (3) above applies in the case of a Class 1A contribution for the tax year beginning with 6th April 2000 only if the person providing the benefit in question gives notice in writing to the Inland Revenue on or before 6th July 2001 that he is a person who provides benefits in respect of which a liability to Class 1A contributions is capable of falling by virtue of this section on a person other than the relevant employer.
- (5) The Treasury may by regulations make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Act as having arranged or facilitated the provision of any benefit.
- (6) In this section references to a member of a person's family or household shall be construed in accordance with section 168(4) of the Income and Corporation Taxes Act 1988.

### **10ZB Non-cash vouchers provided by third parties**

- (1) In section 10ZA above references to the provision of a benefit include references to the provision of a non-cash voucher.
- (2) Where—
- (a) a non-cash voucher is received by any person from employment to which Chapter II of Part V of the Income and Corporation Taxes Act 1988 does not apply, and
- (b) the case would be one in which the conditions in section 10ZA(1) (a) to (d) above would be satisfied in relation to the provision of that voucher if that Chapter did apply to that employment,
- sections 10 and 10ZA above shall have effect in relation to the provision of that voucher, and to any such payment in respect of the provision of that

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voucher as is mentioned in section 10ZA(2) above, as if that employment were employment to which that Chapter applied.

- (3) In this section “non-cash voucher” has the same meaning as in section 141 of the Income and Corporation Taxes Act 1988.”
- (2) After subsection (3) of section 104ZA of the Social Security Administration (Northern Ireland) Act 1992 (premises liable to inspection) there shall be inserted—
- “(3A) The references in subsection (3) above to a trade or business include references to the administration of any scheme for the provision of benefits to persons by reason of their employment.”
- (3) Subsection (1) shall have effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years.
- (4) Regulations made by virtue of this section under section 10ZA(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 may be made so as to have retrospective effect in relation to any time in the tax year in which they are made (including, in the case of regulations made in the tax year in which this Act is passed, any time in that tax year before the passing of this Act).

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- (1) Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (supplementary provisions relating to contributions) shall be amended in accordance with subsections (2) to (5).
- (2) In paragraph 7(2)(b) (application of sections 100 to 100D and 102 to 104 of the Taxes Management Act 1970 in relation to certain penalties), for “104” there shall be substituted “105”.
- (3) For sub-paragraph (2)(e) of paragraph 7B (power to provide for interest to be charged on late payment in the case of payment outside the PAYE system) there shall be substituted—
- “(e) require interest to be paid on contributions that are not paid by the due date, and provide for determining the date from which such interest is to be calculated;”
- (4) After sub-paragraph (5) of that paragraph there shall be inserted—
- “(5A) Regulations under this paragraph may, in relation to any penalty imposed by such regulations, make provision applying (with or without modifications) any enactment applying for the purposes of income tax that is contained in Part X of the Taxes Management Act 1970 (penalties).”
- (5) After that paragraph there shall be inserted—
- “(7BA) The Inland Revenue may by regulations provide for amounts in respect of contributions or interest that fall to be paid or repaid in accordance with any regulations under this Schedule to be set off, or to be capable of being set off, in prescribed circumstances and to the prescribed extent, against any such liabilities under regulations under this Schedule of the person entitled to the payment or repayment as may be prescribed.”

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- (6) In Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (decisions to be made by an Inland Revenue officer and appealable under Article 10)—
- (a) sub-paragraph (j) (interest under regulations made by virtue of paragraph 7B(2)(e) of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992) shall cease to have effect; and
  - (b) in sub-paragraph (l), for “sub-paragraphs (j) and (k)” there shall be substituted “sub-paragraph (k)”, and the words “amount of interest or” shall be omitted.
- (7) Subsection (6) has effect in relation to interest accruing on sums becoming due in respect of the tax year beginning with 6th April 2000 or any subsequent tax year.

## **81 Liability of earner for secondary contributions: Northern Ireland**

- (1) In paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (prohibition on deduction or recovery of Class 1 contributions), sub-paragraph (2) shall be omitted.
- (2) After that paragraph there shall be inserted—

### *“Prohibition on recovery of employer’s contributions*

- 3A (1) Subject to sub-paragraph (2) below, a person who is or has been liable to pay any secondary Class 1 or any Class 1A or Class 1B contributions shall not—
- (a) make, from earnings paid by him, any deduction in respect of any such contributions for which he or any other person is or has been liable;
  - (b) otherwise recover any such contributions (directly or indirectly) from any person who is or has been a relevant earner; or
  - (c) enter into any agreement with any person for the making of any such deduction or otherwise for the purpose of so recovering any such contributions.
- (2) Sub-paragraph (1) above does not apply to the extent that an agreement between—
- (a) a secondary contributor, and
  - (b) any person (“the earner”) in relation to whom the secondary contributor is, was or will be such a contributor in respect of the contributions to which the agreement relates,
- allows the secondary contributor to recover (whether by deduction or otherwise) the whole or any part of any secondary Class 1 contribution payable in respect of a gain that is treated as remuneration derived from that earner’s employment by virtue of section 4(4)(a) above.
- (3) Sub-paragraph (2) above does not authorise any recovery (whether by deduction or otherwise)—
- (a) in pursuance of any agreement entered into before 19th May 2000; or
  - (b) in respect of any liability to a contribution arising before the day of the passing of the Child Support, Pensions and Social Security Act 2000.

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

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(4) In this paragraph—

“agreement” includes any arrangement or understanding (whether or not legally enforceable); and

“relevant earner”, in relation to a person who is or has been liable to pay any contributions, means an earner in respect of whom he is or has been so liable.

*Transfer of liability to be borne by earner*

3B (1) This paragraph applies where—

(a) an election is jointly made by—

(i) a secondary contributor, and

(ii) a person (“the earner”) in relation to whom the secondary contributor is or will be such a contributor in respect of contributions on share option gains by the earner,

for the whole or a part of any liability of the secondary contributor to contributions on any such gains to be transferred to the earner; and

(b) the election is one in respect of which the Inland Revenue have, before it was made, given by notice to the secondary contributor their approval to both—

(i) the form of the election; and

(ii) the arrangements made in relation to the proposed election for securing that the liability transferred by the election will be met.

(2) Any liability which—

(a) arises while the election is in force, and

(b) is a liability to pay the contributions on share option gains by the earner, or the part of them, to which the election relates,

shall be treated for the purposes of this Act, the Administration Act and Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 as a liability falling on the earner, instead of on the secondary contributor.

(3) Subject to sub-paragraph (7)(b) below, an election made for the purposes of sub-paragraph (1) above shall continue in force from the time when it is made until whichever of the following first occurs, namely—

(a) it ceases to have effect in accordance with its terms;

(b) it is revoked jointly by both parties to the election;

(c) notice is given to the earner by the secondary contributor terminating the effect of the election.

(4) An approval given to the secondary contributor for the purposes of sub-paragraph (1)(b) above may be given either—

(a) for an election to be made by the secondary contributor and a particular person; or

(b) for all elections to be made, or to be made in particular circumstances, by the secondary contributor and particular



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persons or by the secondary contributor and persons of a particular description.

- (5) The grounds on which the Inland Revenue shall be entitled to refuse an approval for the purposes of sub-paragraph (1)(b) above shall include each of the following—
- (a) that it appears to the Inland Revenue that adequate arrangements have not been made for securing that the liabilities transferred by the proposed election or elections will be met by the person or persons to whom they would be so transferred; and
  - (b) that it appears to the Inland Revenue that they do not have sufficient information to determine whether or not grounds falling within paragraph (a) above exist.
- (6) If, at any time after they have given an approval for the purposes of sub-paragraph (1)(b) above, it appears to the Inland Revenue—
- (a) that the arrangements that were made or are in force for securing that liabilities transferred by elections to which the approval relates are met are proving inadequate or unsatisfactory in any respect, or
  - (b) that any election to which the approval relates has resulted, or is likely to result, in the avoidance or non-payment of the whole or any part of any secondary Class 1 contributions,
- the Inland Revenue may withdraw the approval by notice to the secondary contributor.
- (7) The withdrawal by the Inland Revenue of any approval given for the purposes of sub-paragraph (1)(b) above—
- (a) may be either general or confined to a particular election or to particular elections; and
  - (b) shall have the effect that the election to which the withdrawal relates has no effect on contributions on share option gains in respect of any right to acquire shares obtained after—
    - (i) the date on which notice of the withdrawal of the approval is given; or
    - (ii) such later date as the Inland Revenue may specify in that notice.
- (8) Where the Inland Revenue have refused or withdrawn their approval for the purposes of sub-paragraph (1)(b) above, the person who applied for it or, as the case may be, to whom it was given may appeal to the Special Commissioners against the Inland Revenue's decision.
- (9) On an appeal under sub-paragraph (8) above the Special Commissioners may—
- (a) dismiss the appeal;
  - (b) remit the decision appealed against to the Inland Revenue with a direction to make such decision as the Special Commissioners think fit; or
  - (c) in the case of a decision to withdraw an approval, quash that decision and direct that that decision is to be treated as never having been made.

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- (10) Subject to sub-paragraph (12) below, an election under sub-paragraph (1) above shall not apply to any contributions in respect of gains realised before it was made.
- (11) Regulations made by the Inland Revenue may make provision with respect to the making of elections for the purposes of this paragraph and the giving of approvals for the purposes of sub-paragraph (1)(b) above; and any such regulations may, in particular—
- (a) prescribe the matters that must be contained in such an election;
  - (b) provide for the manner in which such an election is to be capable of being made and of being confined to particular liabilities or the part of particular liabilities; and
  - (c) provide for the making of applications for such approvals and for the manner in which those applications are to be dealt with.
- (12) Where—
- (a) an election is made under this paragraph before the end of the period of three months beginning with the date of the passing of the Child Support, Pensions and Social Security Act 2000, and
  - (b) that election is expressed to relate to liabilities for contributions arising on or after 19th May 2000 and before the making of the election,
- this paragraph shall have effect in relation to those liabilities as if sub-paragraph (2) above provided for them to be deemed to have fallen on the earner (instead of on the secondary contributor); and the secondary contributor shall accordingly be entitled to reimbursement from the earner for any payment made by that contributor in or towards the discharge of any of those liabilities.
- (13) In this paragraph references to contributions on share option gains by the earner are references to any secondary Class 1 contributions payable in respect of a gain that is treated as remuneration derived from the earner's employment by virtue of section 4(4)(a) above.
- (14) In this paragraph “the Special Commissioners” means the Commissioners for the special purposes of the Income Tax Acts.”
- (3) In section 6(4) of that Act (persons by whom Class 1 contributions are payable), for the words from “paragraph 3” onwards there shall be substituted “paragraphs 3 to 3B of Schedule 1 to this Act.”
- (4) In paragraph 8(1) of Schedule 1 to that Act (general regulations), after paragraph (c) there shall be inserted—
- “(ca) for requiring a secondary contributor to notify a person to whom any of his liabilities are transferred by an election under paragraph 3B above of—
    - (i) any transferred liability that arises;
    - (ii) the amount of any transferred liability that arises; and
    - (iii) the contents of any notice of withdrawal by the Inland Revenue of any approval that relates to that election;”.

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- (5) In Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (decisions to be taken by officers of the Inland Revenue), after sub-paragraph (i) there shall be inserted—
- “(ia) to decide whether to give or withdraw an approval for the purposes of paragraph 3B(1)(b) of Schedule 1 to the Contributions and Benefits Act;”.
- (6) In Article 9 of that Order (regulations about varying or superseding decisions), at the beginning of paragraph (1) there shall be inserted “Subject to paragraph (2A) below,”, and after paragraph (2) there shall be inserted—
- “(2A) The decisions in relation to which provision may be made by regulations under this Article shall not include decisions falling within Article 7(1)(ia) of this Order.”
- (7) In Article 11(4) of that Order (appeals to be heard by General Commissioners), after “Subject to” there shall be inserted “paragraph 3B(8) of Schedule 1 to the Contributions and Benefits Act (which provides for appeals under that paragraph to be heard by the Special Commissioners), to”.