

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2015. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 2

#### REFORM OF CLASS 2 CONTRIBUTIONS

##### *SSCBA 1992*

- 1 SSCBA 1992 is amended as follows.
- 2 In section 1 (outline of contributory system), in subsection (2)(c), omit “weekly”.
- 3 For section 11 (liability for Class 2 contributions) substitute—

##### **“11 Class 2 contributions**

- (1) This section applies if an earner is in employment as a self-employed earner in a tax year (the “relevant tax year”).
- (2) If the earner has relevant profits of, or exceeding, the small profits threshold, the earner is liable to pay Class 2 contributions for the relevant tax year at the rate of £2.80 in respect of each week in that year that the earner is in the employment.
- (3) “Relevant profits” means profits, from the employment, in respect of which Class 4 contributions are payable under section 15 for the relevant tax year (or would be payable if the amount of the profits were to exceed the amount specified in subsection (3)(a) of that section in excess of which the main Class 4 percentage is payable).
- (4) The “small profits threshold” is £5,965.
- (5) Class 2 contributions under subsection (2) are to be payable in the same manner that Class 4 contributions in respect of relevant profits are, or would be, payable (but see section 11A for the application of certain provisions in relation to such Class 2 contributions).
- (6) If the earner does not have relevant profits of, or exceeding, the small profits threshold, the earner may pay a Class 2 contribution of £2.80 in respect of any week in the relevant tax year that the earner is in the employment.
- (7) No Class 2 contributions are to be paid under this section in respect of any week in the relevant tax year—
  - (a) before that in which the earner attains the age of 16, or
  - (b) after that in which the earner attains pensionable age.
- (8) The Treasury may by regulations make provision so that, in relation to an earner, the Class 2 contribution in respect of a week is higher than that specified in subsections (2) and (6) where—

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- (a) in respect of any employment of the earner, the earner is treated by regulations made under section 2(2)(b) as being a self-employed earner, and
  - (b) in any period or periods the earner has earnings from that employment and—
    - (i) those earnings are such that (disregarding their amount) the earner would be liable for Class 1 contributions in respect of them if the earner were not so treated in respect of the employment, and
    - (ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 18(1).
- (9) The Treasury may by regulations—
- (a) modify the meaning of “relevant profits”;
  - (b) provide that Class 2 contributions under subsection (6) may not be paid—
    - (i) if the employment or the earner is of a prescribed description, or
    - (ii) in prescribed circumstances.
- (10) Regulations under subsection (9)(a) may amend this section.
- (11) Regulations under subsection (9)(b) are to be made with the concurrence of the Secretary of State.

#### **11A Application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2)**

- (1) The following provisions apply, with the necessary modifications, in relation to Class 2 contributions under section 11(2) as if those contributions were income tax chargeable under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 in respect of profits of a trade, profession or vocation which is not carried on wholly outside the United Kingdom—
- (a) Part 2 (returns), Part 4 (assessment and claims), Part 5 (appeals), Part 5A (payment of tax), Part 6 (collection and recovery) and Part 10 (penalties) of the Taxes Management Act 1970;
  - (b) Schedule 24 to the Finance Act 2007 (penalties for errors);
  - (c) sections 101 and 102 of the Finance Act 2009 (interest);
  - (d) Schedules 55 and 56 to that Act (penalties for failure to make returns etc or for failure to make payments on time);
  - (e) Part 4 (follower notices and accelerated payments) and Part 5 (promoters of tax avoidance schemes) of the Finance Act 2014;
  - (f) any other provisions of the Income Tax Acts as to assessment, collection, repayment or recovery.
- (2) But section 59A of the Taxes Management Act 1970 (payments on account) does not apply in relation to Class 2 contributions under section 11(2).
- (3) This section and section 11(5) are subject to any contrary provision in regulations made under Schedule 1 in relation to Class 2 contributions under section 11(2).”

- 4 (1) Section 12 (late paid Class 2 contributions) is amended as follows.

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- (2) In subsection (1), after “Class 2 contribution” insert “ under section 11(6) ”.
  - (3) In subsection (2), for “to (5)” substitute “ and (4) ”.
  - (4) In subsection (3), for “(4) to (6)” substitute “ (4) and (6) ”.
  - (5) Omit subsection (5).
  - (6) In subsection (6)—
    - (a) omit “or (5)”;
    - (b) in paragraph (a), omit “in a case falling within subsection (3) above,”;
    - (c) omit paragraph (b) and the word “and” preceding it.
  - (7) Omit subsection (7).
  - (8) In subsection (8)—
    - (a) in the definition of “ordinary contribution”, for “under section 11(1) above” substitute “ of the amount specified in section 11(6) ”;
    - (b) in the definition of “higher-rate contribution”, for the words from “under regulations” to the end substitute “ of an amount provided for in regulations under section 11(8) ”.
- 5 In section 18 (Class 4 contributions recoverable under regulations), in subsection (1)(b), for “subsection (3)” substitute “ subsection (8) ”.
- 6 In section 35A (appropriate weekly rate of maternity allowance under section 35), in subsection (5)(c)—
  - (a) in sub-paragraph (i), after “she” insert “ has ”;
  - (b) in sub-paragraph (ii), for “was excepted (under section 11(4) above) from liability for” substitute “ could have paid, but has not paid, ”.
- 7 In section 35B (state maternity allowance for participating wife or civil partner of self-employed earner), in subsection (1)(c), for “is liable to pay” substitute “ has paid ”.
- 8 In section 176(1)(a) (parliamentary control: instruments subject to affirmative procedure), for “section 11(3)” substitute “ section 11(8) or (9) ”.
- 9 (1) Schedule 1 (supplementary provisions) is amended as follows.
- (2) In paragraph 7B, omit sub-paragraph (7).
  - (3) After paragraph 7BA insert—
    - “~~7B~~1) Regulations may provide, in connection with maternity allowance under section 35 or 35B, for a person who is, or will be, either liable or entitled to pay a Class 2 contribution in respect of a week in a tax year to be able to pay a Class 2 contribution in respect of that week at any time in the period—
      - (a) beginning with that week, and
      - (b) ending with a prescribed date.
    - (2) The regulations may provide that where a person pays a Class 2 contribution in respect of a week in a tax year under the regulations—
      - (a) the contribution is to be treated, before the end of the tax year, as a Class 2 contribution under section 11(6);
      - (b) the contribution is to be treated, after the end of the tax year—

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- (i) if the person is liable under section 11(2) to pay a Class 2 contribution in respect of that week, as a Class 2 contribution under section 11(2);
  - (ii) otherwise, as a Class 2 contribution under section 11(6).
- (3) Regulations under this paragraph are to be made by the Treasury acting with the concurrence of the Secretary of State.”
- (4) In paragraph 8(1), omit paragraphs (j) and (k).

*SSCB(NI)A 1992*

- 10 SSCB(NI)A 1992 is amended as follows.
- 11 In section 1 (outline of contributory system), in subsection (2)(c), omit “weekly”.
- 12 For section 11 (liability for Class 2 contributions) substitute—

**“11 Class 2 contributions**

- (1) This section applies if an earner is in employment as a self-employed earner in a tax year (the “relevant tax year”).
- (2) If the earner has relevant profits of, or exceeding, the small profits threshold, the earner is liable to pay Class 2 contributions for the relevant tax year at the rate of £2.80 in respect of each week in that year that the earner is in the employment.
- (3) “Relevant profits” means profits, from the employment, in respect of which Class 4 contributions are payable under section 15 for the relevant tax year (or would be payable if the amount of the profits were to exceed the amount specified in subsection (3)(a) of that section in excess of which the main Class 4 percentage is payable).
- (4) The “small profits threshold” is £5,965.
- (5) Class 2 contributions under subsection (2) are to be payable in the same manner that Class 4 contributions in respect of relevant profits are, or would be, payable (but see section 11A for the application of certain provisions in relation to such Class 2 contributions).
- (6) If the earner does not have relevant profits of, or exceeding, the small profits threshold, the earner may pay a Class 2 contribution of £2.80 in respect of any week in the relevant tax year that the earner is in the employment.
- (7) No Class 2 contributions are to be paid under this section in respect of any week in the relevant tax year—
  - (a) before that in which the earner attains the age of 16, or
  - (b) after that in which the earner attains pensionable age.
- (8) The Treasury may by regulations make provision so that, in relation to an earner, the Class 2 contribution in respect of a week is higher than that specified in subsections (2) and (6) where—
  - (a) in respect of any employment of the earner, the earner is treated by regulations made under section 2(2)(b) as being a self-employed earner, and

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- (b) in any period or periods the earner has earnings from that employment and—
  - (i) those earnings are such that (disregarding their amount) the earner would be liable for Class 1 contributions in respect of them if the earner were not so treated in respect of the employment, and
  - (ii) no Class 4 contribution is payable in respect of the earnings by virtue of regulations under section 18(1).
- (9) The Treasury may by regulations—
  - (a) modify the meaning of “relevant profits”;
  - (b) provide that Class 2 contributions under subsection (6) may not be paid—
    - (i) if the employment or the earner is of a prescribed description, or
    - (ii) in prescribed circumstances.
- (10) Regulations under subsection (9)(a) may amend this section.
- (11) Regulations under subsection (9)(b) are to be made with the concurrence of the Department.

#### **11A Application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2)**

- (1) The following provisions apply, with the necessary modifications, in relation to Class 2 contributions under section 11(2) as if those contributions were income tax chargeable under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 in respect of profits of a trade, profession or vocation which is not carried on wholly outside the United Kingdom—
    - (a) Part 2 (returns), Part 4 (assessment and claims), Part 5 (appeals), Part 5A (payment of tax), Part 6 (collection and recovery) and Part 10 (penalties) of the Taxes Management Act 1970;
    - (b) Schedule 24 to the Finance Act 2007 (penalties for errors);
    - (c) sections 101 and 102 of the Finance Act 2009 (interest);
    - (d) Schedules 55 and 56 to that Act (penalties for failure to make returns etc or for failure to make payments on time);
    - (e) Part 4 (follower notices and accelerated payments) and Part 5 (promoters of tax avoidance schemes) of the Finance Act 2014;
    - (f) any other provisions of the Income Tax Acts as to assessment, collection, repayment or recovery.
  - (2) But section 59A of the Taxes Management Act 1970 (payments on account) does not apply in relation to Class 2 contributions under section 11(2).
  - (3) This section and section 11(5) are subject to any contrary provision in regulations made under Schedule 1 in relation to Class 2 contributions under section 11(2).”
- 13 (1) Section 12 (late paid Class 2 contributions) is amended as follows.
- (2) In subsection (1), after “Class 2 contribution” insert “ under section 11(6) ”.

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- (3) In subsection (2), for “to (5)” substitute “ and (4) ”.
- (4) In subsection (3), for “(4) to (6)” substitute “ (4) and (6) ”.
- (5) Omit subsection (5).
- (6) In subsection (6)—
- (a) omit “or (5)”;
  - (b) in paragraph (a), omit “in a case falling within subsection (3) above,”;
  - (c) omit paragraph (b) and the word “and” preceding it.
- (7) Omit subsection (7).
- (8) In subsection (8)—
- (a) in the definition of “ordinary contribution”, for “under section 11(1) above” substitute “ of the amount specified in section 11(6) ”;
  - (b) in the definition of “higher-rate contribution”, for the words from “under regulations” to the end substitute “ of an amount provided for in regulations under section 11(8) ”.
- 14 In section 18 (Class 4 contributions recoverable under regulations), in subsection (1)(b), for “subsection (3)” substitute “ subsection (8) ”.
- 15 In section 35A (appropriate weekly rate of maternity allowance under section 35), in subsection (5)(c)—
- (a) in sub-paragraph (i), after “she” insert “ has ”;
  - (b) in sub-paragraph (ii), for “was excepted (under section 11(4) above) from liability for” substitute “ could have paid, but has not paid, ”.
- 16 In section 35B (state maternity allowance for participating wife or civil partner of self-employed earner), in subsection (1)(c), for “is liable to pay” substitute “ has paid ”.
- 17 In section 172(11A) (instruments subject to Parliamentary affirmative procedure), for “11(3)” substitute “ 11(8) or (9) ”.
- 18 (1) Schedule 1 (supplementary provisions) is amended as follows.
- (2) In paragraph 7B, omit sub-paragraph (7).
- (3) After paragraph 7BA insert—
- “~~7B~~1) Regulations may provide, in connection with maternity allowance under section 35 or 35B, for a person who is, or will be, either liable or entitled to pay a Class 2 contribution in respect of a week in a tax year to be able to pay a Class 2 contribution in respect of that week at any time in the period—
- (a) beginning with that week, and
  - (b) ending with a prescribed date.
- (2) The regulations may provide that where a person pays a Class 2 contribution in respect of a week in a tax year under the regulations—
- (a) the contribution is to be treated, before the end of the tax year, as a Class 2 contribution under section 11(6);
  - (b) the contribution is to be treated, after the end of the tax year—

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- (i) if the person is liable under section 11(2) to pay a Class 2 contribution in respect of that week, as a Class 2 contribution under section 11(2);
- (ii) otherwise, as a Class 2 contribution under section 11(6).

(3) Regulations under this paragraph are to be made by the Treasury acting with the concurrence of the Department.”

(4) In paragraph 8(1), omit paragraphs (j) and (k).

#### *SSAA 1992*

19 SSAA 1992 is amended as follows.

20 In section 141 (annual review of contributions), in subsection (4)—

- (a) in paragraph (a), for “section 11(1)” substitute “ section 11(2) and (6) ”;
- (b) in paragraph (b), for the words from “amount” to the end substitute “ small profits threshold for the purposes of Class 2 contributions ”.

21 (1) Section 143 (power to alter contributions with a view to adjusting the level of the National Insurance Fund) is amended as follows.

(2) In subsection (1)(c), for “section 11(1)” substitute “ section 11(2) and (6) ”.

(3) In subsection (3)—

- (a) for “section 11(1)” substitute “ section 11(2) and (6) ”;
- (b) for the words from “amount” to the end substitute “ small profits threshold for the purposes of Class 2 contributions ”.

22 In section 145 (power to alter primary and secondary contributions), in subsection (4)(a)—

- (a) for “section 11(1)” substitute “ section 11(2) and (6) ”;
- (b) omit “in that subsection”.

#### *SSC(TF)A 1999*

23 SSC(TF)A 1999 is amended as follows.

24 In section 4 (recovery of contributions where income tax recovery provisions not applicable)—

- (a) in paragraph (a), for “, Class 1B and Class 2” substitute “ and Class 1B ”;
- (b) after paragraph (a) insert—

“(aa) those Class 2 contributions in relation to which—  
(i) the regulations mentioned in paragraph (a), and  
(ii) Part 6 of the Taxes Management Act 1970 (collection and recovery),  
do not apply.”

25 In section 8 (decisions by officers of HMRC), after subsection (1) insert—

“(1A) No decision in respect of Class 2 contributions under section 11(2) of the Social Security Contributions and Benefits Act 1992 may be made under subsection (1) in relation to an issue specified in paragraph (c) or (e) of that subsection if the person to whom the decision would relate—

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- (a) has appealed under Part 5 of the Taxes Management Act 1970 in relation to that issue,
  - (b) can appeal under that Part in relation to that issue, or
  - (c) might in the future, without the agreement of Her Majesty's Revenue and Customs or permission of the tribunal, be able to appeal under that Part in relation to that issue.”
- 26 In Schedule 3 (transfer of other functions to the Treasury or Board), omit paragraph 12.
- 27 In Schedule 9 (further consequential amendments), omit paragraphs 3 and 7(7).

*Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671)*

- 28 The Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 is amended as follows.
- 29 In Article 7 (decisions by officers of HMRC), after paragraph (1) insert—
- “(1A) No decision in respect of Class 2 contributions under section 11(2) of the Contributions and Benefits Act may be made under paragraph (1) in relation to an issue specified in sub-paragraph (c) or (e) of that paragraph if the person to whom the decision would relate—
- (a) has appealed under Part 5 of the Taxes Management Act 1970 in relation to that issue,
  - (b) can appeal under that Part in relation to that issue, or
  - (c) might in the future, without the agreement of Her Majesty's Revenue and Customs or permission of the tribunal, be able to appeal under that Part in relation to that issue.”
- 30 In Schedule 3 (transfer of other functions to the Treasury or Board), omit paragraph 13.
- 31 In Schedule 8 (further consequential amendments), omit paragraphs 1 and 5(7).

*Social Security (Contributions) Regulations 2001 (S.I. 2001/1004)*

- 32 The Social Security (Contributions) Regulations 2001 are amended as follows.
- 33 (1) In regulation 125 (share fishermen), in paragraph (c), for “section 11(1) of the Act (Class 2 contributions), be £3.40” substitute “ section 11(2) and (6) of the Act (Class 2 contributions), be £3.45 ”.
- (2) The amendment made by sub-paragraph (1) is without prejudice to any power to make regulations amending or revoking the provision amended.
- 34 (1) In regulation 127 (elections by married women and widows), in paragraph (3)(b), after “Class 2 contribution” insert “ , nor shall she be entitled to pay any such contribution, ”.
- (2) The amendment made by sub-paragraph (1) is without prejudice to any power to make regulations amending or revoking the provision inserted.



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### *Commencement*

- 35 The amendments made by this Schedule, other than those mentioned in paragraph 36, have effect for the tax year 2015-16 and subsequent tax years.
- 36 The amendments made by paragraphs 4, 9(2), 13, 18(2), 27 and 31 have effect in relation to a Class 2 contribution in respect of a week in the tax year 2015-16 or a subsequent tax year.
- 37 The Treasury may by regulations made by statutory instrument make transitional or transitory provision or savings in connection with the coming into force of any of the amendments made by this Schedule.

## SCHEDULE 2

Section 4

### APPLICATION OF PARTS 4 AND 5 OF FA 2014 TO NATIONAL INSURANCE CONTRIBUTIONS

#### **PART 1**

#### FOLLOWER NOTICES & ACCELERATED PAYMENTS: CLASS 1, 1A, 1B AND CERTAIN CLASS 2

##### *Introduction*

- 1 Part 4 of FA 2014 (follower notices and accelerated payments) has effect with the following modifications.

##### *General*

- 2 References to tax or a relevant tax, other than references to particular taxes, include relevant contributions.
- 3 References to a charge to tax include a liability to pay relevant contributions and references to a person being chargeable to tax, or to tax being charged, are to be construed accordingly.
- 4 References to an assessment to tax include a NICs decision relating to a person's liability for relevant contributions.
- 5 References to a tax enquiry include a relevant contributions dispute.
- 6 A “relevant contributions dispute” arises if—
- (a) without making a NICs decision, HMRC notifies a person in writing that HMRC considers the person to be liable to pay an amount of relevant contributions, and
  - (b) the person notifies HMRC in writing (a “notification of dispute”) that the person disputes liability for some or all of the contributions (“the disputed contributions”).
- 7 The relevant contributions dispute is in progress, in relation to the notification of dispute, during the period which—
- (a) begins with the day on which the person gives the notification of dispute, and

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- (b) ends (at which point it is to be treated as completed) with the day on which—
- (i) the disputed contributions are paid in full,
  - (ii) HMRC and the person enter into an agreement in writing as to the person's liability for the disputed contributions and any amount of those contributions that the person is to pay under that agreement is paid,
  - (iii) an officer of Revenue and Customs makes a NICs decision in relation to the person's liability for the disputed contributions, or
  - (iv) without making a NICs decision, HMRC notifies the person in writing that HMRC no longer considers the person to be liable to pay the disputed contributions.
- 8 References to a return into which a tax enquiry is in progress include a notification of dispute in relation to which a relevant contributions dispute is in progress.
- 9 References to a tax appeal include a NICs appeal.
- 10 A “NICs appeal” means—
- (a) an appeal, under section 11 of SSC(TF)A 1999 or Article 10 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671), against a NICs decision relating to relevant contributions, or
  - (b) an appeal against any determination of—
    - (i) an appeal within paragraph (a), or
    - (ii) an appeal within this paragraph.
- 11 (1) A reference to a provision of Part 7 of FA 2004 (disclosure of tax avoidance schemes) (a “DOTAS provision”) includes a reference to—
- (a) that DOTAS provision as applied by regulations under section 132A of SSAA 1992 (disclosure of contributions avoidance arrangements);
  - (b) any provision of regulations under that section that corresponds to that DOTAS provision,
- whenever the regulations are made.
- (2) Regulations under section 132A of SSAA 1992 may disapply, or modify the effect of, sub-paragraph (1).

*List of relevant taxes*

- 12 The definition of “relevant tax” in section 200 (“relevant tax”) has effect as if relevant contributions were listed in it.

*Circumstances in which follower notice may be given*

- 13 For the purposes of section 204 (circumstances in which a follower notice may be given), Condition B is also met if, in a relevant contributions dispute, a person disputes liability for relevant contributions on the basis mentioned in subsection (3) of that section (regardless of whether the notification of dispute was given on that basis).

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*Follower notices: corrective action and penalties*

- 14 (1) This paragraph applies in a case in which, by virtue of this Part of this Schedule, a follower notice is given by virtue of section 204(2)(a).
- (2) For the purposes of section 208 (penalty if corrective action not taken in response to follower notice), the necessary corrective action is taken in respect of the denied advantage if (and only if)—
- (a) in a case in which the denied advantaged can be counteracted by making a payment to HMRC, P makes that payment and notifies HMRC that P has done so, or
  - (b) in any case, P takes all necessary action to enter into an agreement in writing with HMRC for the purpose of relinquishing the denied advantage.
- (3) Accordingly—
- (a) subsections (4) to (7) and (9) to (11) of section 208 do not apply, and
  - (b) the reference in section 209(3)(a) to P amending a return or claim is to be treated as a reference to P making a payment mentioned in sub-paragraph (2) (a).
- (4) Terms used in this paragraph that are defined for the purposes of section 208 have the same meaning as in that section.

*Follower notices: aggregate penalties*

- 15 (1) In section 212 (aggregate penalties), references to a “relevant penalty provision” include—
- (a) any provision mentioned in subsection (4) of that section, as applied in relation to relevant contributions by regulations (whenever made);
  - (b) section 98A of TMA 1970, as applied in relation to relevant contributions by regulations (whenever made);
  - (c) any provision specified in regulations made by the Treasury under which a penalty can be imposed in respect of relevant contributions.
- (2) The Treasury may by regulations disapply, or modify the effect of, sub-paragraph (1) (a) or (b).
- (3) The Treasury may by regulations modify section 212 as it has effect in relation to a relevant penalty provision by virtue of sub-paragraph (1)(b) or (c).
- (4) Section 175(3) to (5) of SSCBA 1992 (various supplementary powers) applies to a power to make regulations conferred by this paragraph.
- (5) Regulations under this paragraph must be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

*Circumstances in which accelerated payment notice may be given*

- 16 For the purposes of section 219 (circumstances in which an accelerated payment notice may be given), Condition B is also met if, in a relevant contributions dispute, a person disputes liability for relevant contributions on the basis mentioned in subsection (3) of that section (regardless of whether the notification of dispute was given on that basis).

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*Nature and recovery of accelerated payment*

- 17 (1) This paragraph applies in relation to an accelerated payment (see section 223(2)) so far as (but only so far as) it represents understated tax (see section 220) that consists of an additional amount that would be due and payable in respect of relevant contributions (“the understated contributions”).
- (2) The accelerated payment is a payment of the understated contributions (and not a payment on account of them).
- (3) Accordingly, subsections (3) and (7) to (9) of section 223 do not apply in relation to the accelerated payment.
- (4) The accelerated payment must be paid before the end of the payment period regardless of whether P brings a NICs appeal that relates to the understated contributions.
- (5) Section 117A of SSAA 1992 and section 111A of SSA(NI)A 1992 (issues arising in proceedings: contributions etc) do not apply to proceedings for the recovery of any amount of the accelerated payment that is unpaid at the end of the payment period.
- (6) A certificate of an officer of Revenue and Customs under section 25A of CRCA 2005 (certificates of debt) that the accelerated payment has not been paid is to be treated as conclusive evidence that the amount is unpaid.
- (7) If some or all of the understated contributions are subsequently repaid to P—
- (a) the contributions repaid are to be treated, for the purposes of determining a person's entitlement to benefit, or the amount of a person's benefit, as not having been paid, but
  - (b) that does not affect any payments of benefit made to a person before the repayment.
- (8) In sub-paragraph (7) “benefit” means a contributory benefit or a statutory payment.
- (9) Terms used in this paragraph that are defined for the purposes of section 223 have the same meaning as in that section.

*Effect of accelerated payment notice in respect of appeal*

- 18 (1) This paragraph applies where—
- (a) a person (“P”) has been given an accelerated payment notice by virtue of section 219(2)(b) (notice given when appeal pending), which has not been withdrawn, and
  - (b) the appeal by virtue of which the notice could be given was a NICs appeal in relation to relevant contributions.
- (2) P must pay the disputed contributions (see sub-paragraph (8))—
- (a) if no representations were made under section 222 in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and
  - (b) if representations were so made, on or before whichever is later of—
    - (i) the last day of the 90 day period mentioned in paragraph (a), and
    - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222.

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- (3) Subsections (4) and (5) of section 117A of SSAA 1992 or (as the case may be) of section 111A of SSA(NI)A 1992 (decision of officer of HMRC not conclusive if subject to appeal and proceedings for recovery to be adjourned pending appeal) do not apply to proceedings before a court for recovery of the disputed contributions.
- (4) Accordingly, if proceedings have been adjourned under subsection (5) of either of those sections, they cease to be adjourned, so far as they relate to the recovery of the disputed contributions, from the end of the applicable period under sub-paragraph (2).
- (5) A certificate of an officer of Revenue and Customs under section 25A of CRCA 2005 (certificates of debt) that the disputed contributions have not been paid is to be treated as conclusive evidence that the disputed contributions are unpaid.
- (6) If some or all of the disputed contributions are subsequently repaid to P—
  - (a) the contributions repaid are to be treated, for the purposes of determining a person's entitlement to benefit, or the amount of a person's benefit, as not having been paid, but
  - (b) that does not affect any payments of benefit made to a person before the repayment.
- (7) In sub-paragraph (6) “benefit” means a contributory benefit or a statutory payment.
- (8) In this paragraph “the disputed contributions” means the relevant contributions to which the NICs appeal relates so far as they are disputed tax specified in the notice under section 221(2)(b).

*Penalty for failure to pay accelerated payment*

- 19 (1) Subsection (7) of section 226 (penalty for failure to pay accelerated payment) applies in relation to a penalty under that section imposed by virtue of this Part of this Schedule, but the reference in that subsection to tax does not include relevant contributions.
- (2) But in their application by virtue of sub-paragraph (1), the provisions of Schedule 56 to FA 2009 mentioned in that subsection have effect—
  - (a) as if references to an assessment to tax were to a NICs decision relating to a person's liability for relevant contributions,
  - (b) as if a reference to an appeal against an assessment to the tax concerned were a reference to an appeal against a NICs decision,
  - (c) as if sub-paragraph (3)(b) of paragraph 11 were omitted (but see paragraph 20 of this Schedule), and
  - (d) with any other necessary modifications.

*Recovery of penalties under Part 4 of FA 2014*

- 20 (1) A penalty under section 208 or 226 imposed by virtue of this Part of this Schedule may be recovered as if it were an amount of relevant contributions which is due and payable.
- (2) Section 117A of SSAA 1992 or (as the case may be) section 111A of SSA(NI)A 1992 (issues arising in proceedings: contributions etc) has effect in relation to proceedings

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before a court for recovery of the penalty as if the assessment of the penalty were a NICs decision as to whether the person is liable for the penalty.

- (3) Accordingly, section 211(4)(b) (assessment of penalty to be enforced as if it were an assessment to tax) does not apply in relation to a penalty under section 208 imposed by virtue of this Part of this Schedule.

*Withdrawal, modification or suspension of accelerated payment notice*

- 21 In section 227 (withdrawal, modification or suspension of accelerated payment notice), subsection (9) has effect as if the provisions mentioned there included paragraph 18(2) of this Schedule.

*Interpretation*

- 22 In this Part of this Schedule—
- “accelerated payment notice” means an accelerated payment notice under Chapter 3 of Part 4 of FA 2014;
  - “contributory benefit” means—
    - (a) a contributory benefit under Part 2 of SSCBA 1992,
    - (b) a jobseeker's allowance under JA 1995,
    - (c) an employment and support allowance under Part 1 of WRA 2007,
    - (d) state pension or a lump sum under Part 1 of PA 2014,
    - (e) bereavement support payment under section 30 of that Act, or
    - (f) any corresponding benefit in Northern Ireland;
  - “the disputed contributions”, other than in paragraph 18, has the meaning given by paragraph 6(b);
  - “HMRC” means Her Majesty's Revenue and Customs;
  - “NICs appeal” has the meaning given by paragraph 10;
  - “NICs decision” means a decision under section 8 of SSC(TF)A 1999 or Article 7 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671);
  - “notification of dispute” has the meaning given by paragraph 6(b);
  - “relevant contributions” means the following contributions under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992—
    - (a) Class 1 contributions;
    - (b) Class 1A contributions;
    - (c) Class 1B contributions;
    - (d) Class 2 contributions which a person is, or is alleged to be, liable to pay but in relation to which section 11A of the Act in question (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2) of that Act) does not, or would not, apply;
  - “relevant contributions dispute” has the meaning given by paragraphs 6 and 7;
  - “statutory payment” means a statutory payment for the purposes of section 4C of SSCBA 1992 or section 4C of SSCB(NI)A 1992;
- and references to sections are to sections of FA 2014, unless otherwise indicated.

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## PART 2

### PROMOTERS OF AVOIDANCE SCHEMES: CLASS 1, 1A, 1B AND CERTAIN CLASS 2

#### *Introduction*

- 23 Part 5 of FA 2014 (promoters of tax avoidance schemes) has effect with the following modifications.

#### **Commencement Information**

- 11** Sch. 2 para. 23 partly in force; Sch. 2 para. 23 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

#### *General*

- 24 References to tax, other than in references to particular taxes, include relevant contributions.

#### **Commencement Information**

- 12** Sch. 2 para. 24 partly in force; Sch. 2 para. 24 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

- 25 References to a tax advantage include the avoidance or reduction of a liability to pay relevant contributions.

#### **Commencement Information**

- 13** Sch. 2 para. 25 partly in force; Sch. 2 para. 25 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

- 26 (1) A reference to a provision of Part 7 of FA 2004 (disclosure of tax avoidance schemes) (a “DOTAS provision”) includes a reference to—
- (a) that DOTAS provision as applied by regulations under section 132A of SSAA 1992 (disclosure of contributions avoidance arrangements);
  - (b) any provision of regulations under that section that corresponds to that DOTAS provision,
- whenever the regulations are made.
- (2) Regulations under section 132A of SSAA 1992 may disapply, or modify the effect of, sub-paragraph (1).

#### **Commencement Information**

- 14** Sch. 2 para. 26 partly in force; Sch. 2 para. 26 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

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*Changes to legislation: There are currently no known outstanding effects for the National Insurance Contributions Act 2015. (See end of Document for details)*

*Duty to notify Commissioners*

- 27 In section 253 (duty of persons to notify the Commissioners), references to a tax return include a return relating to relevant contributions that is required to be made by or under an enactment.

**Commencement Information**

- I5** Sch. 2 para. 27 partly in force; Sch. 2 para. 27 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

*Power to obtain information and documents*

- 28 In section 255 (power to obtain information and documents), references to a person's tax position include the person's position as regards deductions or repayments of relevant contributions, or of sums representing relevant contributions, that the person is required to make by or under an enactment.

**Commencement Information**

- I6** Sch. 2 para. 28 partly in force; sch. 2 para. 28 in force for specified purposes at Royal Assent and otherwise in force at 12.04.2015, see sch. 2 para. 33(2)

*Limitation of defence of reasonable care*

- 29 In section 276 (limitation of defence of reasonable care), the reference in subsection (1) to a document of a kind listed in the Table in paragraph 1 of Schedule 24 to FA 2007 includes a document, relating to relevant contributions, in relation to which that Schedule applies (and, accordingly, the reference to that Schedule in subsection (2) of that section includes that Schedule as it so applies).

**Commencement Information**

- I7** Sch. 2 para. 29 partly in force; Sch. 2 para. 29 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

*List of taxes*

- 30 The definition of “tax” in section 283(1) (interpretation) has effect as if relevant contributions were listed in it.

**Commencement Information**

- I8** Sch. 2 para. 30 partly in force; Sch. 2 para. 30 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

*Threshold conditions*

- [<sup>F1</sup>30A(1) In paragraph 5 of Schedule 34 (non-compliance with Part 7 of FA 2004 ), in subparagraph (4)—



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- (a) paragraph (a) includes a reference to a decision having been made for corresponding NICs purposes that P is to be deemed not to have failed to comply with the provision concerned as P had a reasonable excuse for not doing the thing required to be done, and
  - (b) the reference in paragraph (c) to a determination is to be read accordingly.
- (2) In this paragraph “corresponding NICs purposes” means the purposes of any provision of regulations under section 132A of SSAA 1992.

#### Textual Amendments

**F1** Sch. 2 paras. 30A-30B and headings inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(18\)](#)

#### Relevant defeats

- 30B (1) Schedule 34A (promoters of tax avoidance schemes: defeated arrangements) has effect with the following modifications.
- (2) References to an assessment (or an assessment to tax) include a NICs decision relating to a person’s liability for relevant contributions.
  - (3) References to adjustments include a payment in respect of a liability to pay relevant contributions (and the definition of “adjustments” in paragraph 24 accordingly has effect as if such payments were included in it).
  - (4) In paragraph 9(3) the reference to an enquiry into a return includes a relevant contributions dispute (as defined in paragraph 6 of this Schedule).
  - (5) In paragraph 28(3)—
    - (a) paragraph (a) includes a reference to a decision having been made for corresponding NICs purposes that the person is to be deemed not to have failed to comply with the provision concerned as the person had a reasonable excuse for not doing the thing required to be done, and
    - (b) the reference in paragraph (c) to a determination is to be read accordingly.

“Corresponding NICs purposes” means the purposes of any provision of regulations under section 132A of SSAA 1992.]

#### Textual Amendments

**F1** Sch. 2 paras. 30A-30B and headings inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(18\)](#)

#### Interpretation

- 31 In this Part of this Schedule—
- [<sup>F2</sup>(za) “NICs decision” means a decision under section 8 of SSC(TF)A 1999 or Article 7 of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 ([SI 1999/671](#));]
  - (a) “relevant contributions” means the following contributions under Part 1 of SSCBA 1992 or Part 1 of SSCB(NI)A 1992—
    - (i) Class 1 contributions;
    - (ii) Class 1A contributions;

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- (iii) Class 1B contributions;
- (iv) Class 2 contributions which must be paid but in relation to which section 11A of the Act in question (application of certain provisions of the Income Tax Acts in relation to Class 2 contributions under section 11(2) of that Act) does not apply;
- (b) references to sections <sup>F3</sup> or Schedules are to sections of, or Schedules to] FA 2014, unless otherwise indicated.

#### Textual Amendments

- F2** Sch. 2 para. 31(z) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(19\)\(a\)](#)  
**F3** Words in Sch. 2 para. 31(b) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(19\)\(b\)](#)

#### Commencement Information

- I9** Sch. 2 para. 31 partly in force; Sch. 2 para. 31 in force for specified purposes at Royal Assent and otherwise in force at 12.4.2015, see Sch. 2 para. 33(2)

### PART 3

#### APPLICATION OF PARTS 4 AND 5 OF FA 2014: CLASS 4

- 32 In section 16 of SSCBA 1992 (application of Income Tax Acts and destination of Class 4 contributions), in subsection (1), at the end of paragraph (c) insert “and
- (d) the provisions of Part 4 (follower notices and accelerated payments) and Part 5 (promoters of tax avoidance schemes) of the Finance Act 2014.”.

### PART 4

#### COMMENCEMENT AND TRANSITORY PROVISION

- 33 (1) Parts 1 and 3 of this Schedule come into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (2) Part 2 of this Schedule comes into force—
- (a) for the purposes of making regulations under Part 5 of FA 2014, on the day on which this Act is passed, and
  - (b) for remaining purposes, at the end of the period of 2 months beginning with the day on which this Act is passed.
- 34 Before the coming into force of the repeals in section 4C of SSCBA 1992 made by Part 1 of Schedule 14 to Welfare Reform Act 2012 c. 5>WRA 2012 (abolition of benefits superseded by universal credit), the reference in paragraph 22 to a jobseeker's allowance is to be treated as a reference to a contribution-based jobseeker's allowance (within the meaning of JA 1995).
- 35 Before the coming into force of the repeal of section 22(8) of SSCBA 1992 made by Part 1 of Schedule 14 to Welfare Reform Act 2012 c. 5>WRA 2012 (abolition of benefits superseded by universal credit), the reference in paragraph 22 to an employment and support allowance is to be treated as a reference to a contributory allowance (within the meaning of Part 1 of WRA 2007).

**Status:**

Point in time view as at 15/09/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the National Insurance Contributions Act 2015.