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STATUTORY INSTRUMENTS

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**1999 No. 527 (C.11)**

**SOCIAL SECURITY**

**The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 1 and Transitional Provisions) Order 1999**

*Made - - - - 3rd March 1999*

The Secretary of State for Social Security, in exercise of the powers conferred on him by section 28(3) and (4) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999<sup>(1)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 1 and Transitional Provisions) Order 1999.

(2) In this Order, unless the context otherwise requires—

“the Act” means the Social Security Contributions (Transfer of Functions, etc.) Act 1999;

“the Administration Act” means the Social Security Administration Act 1992<sup>(2)</sup>;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992<sup>(3)</sup>; and

“transfer provision” has the meaning given by section 21(1) of the Act,

and references to sections and Schedules are references to sections of, and Schedule to, the Act.

**Appointed day**

**2.** Subject to articles 3 to 6 below, the day appointed for the coming into force of—

(a) the provisions of the Act which are specified in Schedule 1 to this Order, for purposes connected with the making of Regulations under or in consequence of provisions of the Act, is 4th March 1999;

(b) the provisions of the Act which are specified in Schedule 2 to this Order, in so far as they are not already in force, is 1st April 1999; and

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(1) 1999 c. 2.  
(2) 1992 c. 5.  
(3) 1992 c. 4.

- (c) the provisions of the Act which are specified in Schedule 3 to this Order, in so far as they are not already in force, is 6th April 1999.

### **Regulations under Schedule 1 to the Contributions and Benefits Act**

3.—(1) Any regulations made under paragraph 6 of Schedule 1 to the Contributions and Benefits Act before 1st April 1999 shall—

- (a) to the extent that they are made by virtue of sub-paragraph (5) of that paragraph, be treated on and after that date as made under that sub-paragraph with the concurrence of the Board, and
- (b) to the extent that they are not made by virtue of that sub-paragraph, shall be treated on and after that date as made under paragraph 6(1).

(2) Any regulations made under paragraph 8(1) of Schedule 1 to the Contributions and Benefits Act before 1st April 1999 shall—

- (a) to the extent that they are made by virtue of paragraph 8(1)(d), or are made by virtue of paragraph 8(1)(q) and relate to the matter referred to in paragraph 8(1)(d), shall be treated on and after that date as made by the Secretary of State, and
- (b) to the extent that they are not so made, shall be treated on and after that date as made by the Treasury.

### **Decisions and appeals**

4.—(1) Subject to paragraph (2) below, where—

- (a) a person has before 1st April applied—
- (i) in accordance with regulations made under section 58 of the Administration Act for the determination by the Secretary of State of any such question as is mentioned in section 17(1) of that Act, or
- (ii) in accordance with regulations made under paragraph (b) of subsection (3) of section 20 of that Act for the determination by an adjudication officer of any question mentioned in that subsection; and
- (b) that question has not been determined before that date,

the question shall on or after that date be treated in accordance with paragraph (3) below as being for the decision of an officer of the Board under section 8(1) of the Act.

(2) Paragraph (1) above—

- (a) shall apply in relation to any such question as is mentioned in paragraph (b) of section 17(1) of the Administration Act only in so far as that question raises an issue of a kind specified in paragraph (c), (d) or (e) of section 8(1) of the Act; and
- (b) shall not apply in relation to any such question as is mentioned in paragraph (e) or (f) of that section 17(1).

(3) A question to which paragraph (1) above applies—

- (a) by virtue only of paragraph (2)(a) above, shall be treated as falling to be decided under paragraph (c), (d) or, as the case may be, (e) of section 8(1) of the Act;
- (b) in any other case, shall be treated as falling to be decided under such provision of the Act as is specified in column (2) of the Table below in relation to the provision of the Administration Act (specified in column (1) of that Table) in which that question is mentioned.

**TABLE**

| <i>(1)</i><br><i>Provision of Administration Act</i> | <i>(2)</i><br><i>Provision of the Act</i> |
|--|---|
| Section 17(1)(a)                                     | Section 8(1)(a)                           |
| Section 17(1)(c)                                     | Section 8(1)(c)                           |
| Section 17(1)(d)                                     | Section 8(1)(b)                           |
| Section 17(1)(g)(i) or (vi)                          | Section 8(1)(f)                           |
| Section 17(1)(g)(ii) to (v)                          | Section 8(1)(g)                           |
| Section 17(1)(h)(i) or (v)                           | Section 8(1)(f)                           |
| Section 17(1)(h)(ii) to (iv)                         | Section 8(1)(g)                           |
| Section 17(1)(i)                                     | Section 8(1)(i)                           |
| Section 20(3)  | Section 8(1)(f)                           |

(4) Where, by virtue of paragraph (1)(a)(i) above, a question falls to be decided by an officer of the Board, that question shall until the relevant date be treated for the purposes of paragraphs (2) (b) and (3)(c)(ii) of regulation 28D of Schedule 1 to the Social Security (Contributions) Regulations 1979 (remission of interest pending determination of questions)(4) as if it were a question for determination under section 17(1) of the Administration Act.

(5) In paragraph (4) above, “the relevant date” means the date on which—

- (a) the question is determined by the officer of the Board; or
- (b) those provisions of that regulation 28D cease to be in force,

whichever first occurs.

(6) Notwithstanding paragraph 1(2) of Schedule 8 (which provides for certain determinations made by the Secretary of State to have effect as if made by the Board), Part II of the Act shall not apply with respect to any decision given before 1st April 1999—

- (a) by the Secretary of State on any such question as is mentioned in section 17(1) of the Administration Act;
- (b) by the Secretary of State of any such question as is mentioned in section 170(1) of the Pensions Schemes Act 1993(5) (which includes such a question among the questions to which section 17(1) of the Administration Act applies); or
- (c) by an adjudication officer of the question mentioned in section 20(3) of that Act.

(7) Where, before 1st April 1999, the Secretary of State has determined a question to which section 170(7) of the Pension Schemes Act 1993 applies (certain questions arising under Part III of that Act), that determination shall, on and after that date, be treated for the purposes of the Occupational and Personal Pension Schemes (Contracting-out etc: Review of Determinations) Regulations 1997(6) as if it had been made by the Board.

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(4) S.I. 1979/591; regulation 28D was inserted by S.I. 1993/821.

(5) 1993 c. 48; section 170 has been amended by paragraph 42 of Schedule 3, paragraph 70 of Schedule 5, and Part III of Schedule 7, to the Pensions Act 1995 (c. 26).

(6) S.I. 1997/358.

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### **Accounts of the National Insurance Fund**

5. Notwithstanding the coming into force of paragraph 51 of Schedule 3 (which provides for the National Insurance Fund to be maintained under the control and management of the Board, and for its accounts to be prepared by them), the accounts of the National Insurance Fund in relation to the year ending on 31st March 1999 shall be prepared by the Secretary of State in accordance with section 161(2) of the Administration Act as in force prior to its amendment by that paragraph.

### **Complaints to the Parliamentary Commissioner for Administration**

6. A complaint made under the Parliamentary Commissioner Act 1967(7) to the Parliamentary Commissioner for Administration in relation to the Department of Social Security, whether made before, on or after 1st April 1999, shall, in so far as it relates to any function transferred by virtue of a transfer provision to the Board, be treated on and after that date as if it were a complaint made in relation to the Board.

Signed by authority of the Secretary of State for Social Security.

3rd March 1999

*Hugh Bayley*  
Parliamentary Under-Secretary of State,  
Department of Social Security

## SCHEDULE 1

article 2(a)

PROVISIONS COMING INTO FORCE ON 4th MARCH 1999 FOR  
PURPOSES CONNECTED WITH THE MAKING OF REGULATIONS

| <i>Provisions of the Act</i>  | <i>Subject matter</i>  |
|---|--|
| Section 18 and Schedule 7, in so far as they relate to paragraphs 1 to 3, 5 to 11 and 17 of that Schedule | Amendments relating to decisions and appeals   |
| Section 19  | Interpretation of Part II of the Act   |
| Section 26(2) and Schedule 9 in so far as they relate to paragraphs 4 to 7 of that Schedule               | Further consequential amendments of provisions concerned with Class 1B contributions and certain penalties and interest payable in connection with contributions |

## SCHEDULE 2

article 2(b)

## PROVISIONS COMING INTO FORCE ON 1st APRIL 1999

| <i>Provisions of the Act</i>   | <i>Subject matter</i>   |
|--|---|
| Section (1) and Schedule 1, except in relation to paragraph 17(c), in so far as it amends paragraph 6(8) of Schedule 1 to the Contributions and Benefits Act, and paragraph 66(3) of that Schedule   | Transfer to Board of certain functions relating to contributions etc.         |
| Section 1(2) and Schedule 2, except in relation to functions which are, by virtue of article 4 of the Pensions Act 1995 (Commencement No. 10) Order 1997(8), exercisable under regulation 20(2)(b) of the Occupational Pension Schemes (Contracting-out) Regulations 1984(9) | Transfer to Board of certain functions under subordinate legislation          |
| Section 2 and Schedule 3   | Transfer of other functions to Treasury or Board                              |
| Section 3, except for subsection (3)(c)  | General functions of Board  |
| Section 4(a), except in so far as it relates to Class 1B contributions, and (b) and Schedule 4 to that extent  | Recovery of contributions where income tax recovery provisions not applicable |
| Section 5 and Schedule 5, except in relation to paragraphs 5 and 7 of that Schedule  | Powers relating to enforcement  |
| Section 6 and Schedule 6   | Disclosure of information   |
| Section 7  | Use of information  |

(8) S.I. 1997/664 (c.23).

(9) S.I. 1984/380; regulation 20(2) was amended by S.I. 1985/1928.

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| <i>Provisions of the Act</i>  | <i>Subject matter</i>  |
|---|--|
| Section 8, except for subsection (1)(h) and (j) to (l)  | Decisions by officers of Board   |
| Sections 9 and 10   | Regulations with respect to decisions, and decisions varying or superseding earlier decisions  |
| Section 11(1) to (3)  | Appeals against decisions of Board   |
| Section 12, except for the words from “section 121D” to “and to” in subsection (4)  | Exercise of right of appeal  |
| Sections 13 to 15   | Regulations about appeals, matters arising as respects decisions, and provision for period before commencement of provisions about social security decisions and appeals |
| Section 18 and Schedule 7, in so far as they relate to paragraphs 1 to 3, 5 to 8, 11, 13, 15 to 17, 18 (except in relation to sub-paragraph (3) thereof), 21 to 23, 25 to 27, 29 to 32 and 35 of that Schedule, and paragraph 36 of that Schedule in so far as it relates to paragraph 23 of Schedule 3 to the Social Security Act 1998 <sup>(10)</sup> | Amendments relating to decisions and appeals   |
| Section 19  | Interpretation of Part II  |
| Sections 21 and 22  | Property, rights and liabilities, and special provision for certain contracts  |
| Section 23  | Power to transfer functions by Order in Council  |
| Section 26(2) and Schedule 9, except in relation to paragraphs 1 and 2 of that Schedule   | Further consequential amendments   |
| Section 26(3) and Schedule 10, except in respect of the repeals in section 118 of the Administration Act, of section 167(3) of the Pension Schemes Act 1993 <sup>(11)</sup> , and in sections 16 and 62 of, and of paragraph 23 of Schedule 3 and paragraphs 130 and 132 of Schedule 7 to, the Social Security Act 1998.                                | Repeals and revocations  |

<sup>(10)</sup> 1998 c. 14.

<sup>(11)</sup> 1993 c. 48.

SCHEDULE 3

article 2(c)

PROVISIONS COMING INTO FORCE ON 6th APRIL 1999

| <i>Provisions of the Act</i>   | <i>Subject matter</i>   |
|--|---|
| Section 4(a), as it relates to Class 1B contributions, and (c) and Schedule 4 to that extent   | Recovery of Class 1B contributions, interest and penalties where income tax recovery provisions not applicable                        |
| Section 5 and Schedule 5 in so far as they relate to paragraphs 5 and 7 of that Schedule   | Powers relating to enforcement—breach of regulations, and evidence of non-payment of contributions                                    |
| Sections 8(1)(h) and (j) to (l)  | Decisions by officers of Board in relation to liability of company directors for contributions, and to certain penalties and interest |
| Section 11(4)  | Appeals against decisions of Board—liability of company directors for contributions   |
| Section 12(4) as it relates to section 121D of the Administration Act  | Exercise of right of appeal in connection with liability of company directors for contributions                                       |
| Section 18 and Schedule 7 in so far as they relate to paragraphs 9 and 10 of that Schedule   | Decisions and appeals   |
| Section 26(2) and Schedule 9 in so far as they relate to paragraphs 1 and 2 of that Schedule   | Consequential amendment of the Debtors (Scotland) Act 1987  |
| Section 26(3) and Schedule 10 in so far as they relate to repeals in section 118 of the Administration Act, and section 62 of the Social Security Act 1998 | Repeals   |

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the coming into force of provisions of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (“the Act”).

In accordance with article 2, the provisions of the Act specified in Schedule 1 come into force on 4th March 1999 in so far as they authorise the making of Regulations, the provisions specified in Schedule 2 come into force on 1st April 1999, and the provisions specified in Schedule 3 (which apply in relation to provisions of the Social Security Act 1998 which are to come into force on 6th April 1999) come into force on 6th April 1999.

This Order also makes transitional provision, in connection with the coming into force of provisions of the Act, in relation to regulations made under paragraphs 6 and 8 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (article 3), as to decisions and appeals relating to contributions, statutory sick pay, statutory maternity pay and certain matters arising under Part III of

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the Pension Schemes Act 1993 (article 4), as to the preparation of accounts of the National Insurance Fund (article 5) and as to complaints to the Parliamentary Commissioner for Administration (article 6).