



Social Security Contributions (Transfer of Functions, etc.) Act 1999

1999 CHAPTER 2

PART III

MISCELLANEOUS AND SUPPLEMENTAL

20 Payments in respect of money purchase contracted-out pension schemes to be made out of National Insurance Fund

- (1) In section 177 of the Pension Schemes Act 1993 (general financial arrangements)—
 - (a) in subsection (2) (sums payable out of National Insurance Fund), before paragraph (a) there is inserted—

“(za) payments by the Inland Revenue under section 42A(3);”, and
 - (b) in subsection (7) (sums payable into National Insurance Fund), in paragraph (a), after “section” there is inserted “42A(5) or”.
- (2) In section 172 of the Pension Schemes (Northern Ireland) Act 1993 (general financial arrangements)—
 - (a) in subsection (1) (sums payable out of Northern Ireland National Insurance Fund), before paragraph (a) there is inserted—

“(za) payments by the Department under section 38A(3);”, and
 - (b) in subsection (7) (sums payable into Northern Ireland National Insurance Fund), in paragraph (a), after “section” there is inserted “38A(5) or”.
- (3) There shall be paid out of the National Insurance Fund into the Consolidated Fund such sum as the Secretary of State may estimate to be the amount of any payments made by the Secretary of State under subsection (3) of section 42A of the Pension Schemes Act 1993 during the period beginning with 1st April 1998 and ending with the passing of this Act, after deduction of the amount of any payments recovered by him under subsection (5) of that section during that period.
- (4) There shall be paid out of the Northern Ireland National Insurance Fund into the Consolidated Fund of Northern Ireland such sum as the Department of Health and

Social Services for Northern Ireland may estimate to be the amount of any payments made by the Department under subsection (3) of section 38A of the Pension Schemes (Northern Ireland) Act 1993 during the period beginning with 1st April 1998 and ending with the passing of this Act, after deduction of the amount of any payments recovered by it under subsection (5) of that section during that period.

- (5) Until the coming into force of paragraph 46(2) of Schedule 1 to this Act (which amends section 42A(3) of the Pension Schemes Act 1993), the reference to the Inland Revenue in section 177(2)(za) of the Pension Schemes Act 1993 (as inserted by subsection (1) (a) above) shall have effect as a reference to the Secretary of State.

21 Property, rights and liabilities

- (1) In this section a “transfer provision” means any of the following provisions of this Act—
- (a) section 1 and Schedules 1 and 2,
 - (b) section 2 and Schedule 3,
 - (c) section 8, and
 - (d) section 16(1).
- (2) Any property, rights and liabilities to which the Secretary of State is entitled or subject immediately before the commencement of a transfer provision in connection with functions transferred to the Board or the Treasury by virtue of that provision are hereby transferred to the Board or, as the case may be, the Treasury on the commencement of that provision.
- (3) A certificate issued by the Board or the Treasury that any property vested in the Secretary of State immediately before the commencement of a transfer provision has been transferred by virtue of this Act to the Board or, as the case may be, the Treasury shall be conclusive evidence of the transfer.

22 Special provision for certain contracts

- (1) This section applies to—
- (a) any contract for the supply of goods or services to the Secretary of State which relates partly to functions transferred by virtue of this Act to the Board (in this section referred to as “transferred functions”) and partly to functions retained by the Secretary of State (in this section referred to as “retained functions”), and
 - (b) any contract for the supply of goods or services to the Secretary of State which relates only to transferred functions or only to retained functions, but whose terms are wholly or partly determined in accordance with a contract falling within paragraph (a) above.
- (2) Section 21 of this Act shall not apply in relation to any contract to which this section applies.
- (3) Subject to subsections (4) and (5) below, in any contract to which this section applies any term restricting the provision of goods or services under the contract to the Secretary of State or the Department of Social Security shall be treated as referring also to the Board, in connection with transferred functions.

- (4) If the Secretary of State so provides by order in relation to any specified contract or class of contracts to which this section applies, the provisions of subsection (5) below shall have effect in relation to that contract, or contracts falling within that class, in place of subsection (3) above.
- (5) Where this subsection applies, all rights and liabilities of the Secretary of State under the contract are by virtue of this subsection transferred to the Board on the commencement of this subsection, but any term restricting the provision of goods or services under the contract to the Secretary of State or the Department of Social Security shall be treated as referring both to the Board, in connection with transferred functions, and to the Secretary of State or that department.

23 Power to transfer functions by Order in Council

- (1) Her Majesty may by Order in Council—
 - (a) provide for the transfer from the Secretary of State to the Board, or from the Board to the Secretary of State, of any transferable function,
 - (b) provide that any transferable function of the Secretary of State is to be exercisable only with the concurrence of the Board or the Treasury, or is to cease to be exercisable only with that concurrence,
 - (c) provide that any transferable function of the Board is to be exercisable only with the concurrence of the Secretary of State, or is to cease to be exercisable only with that concurrence, and
 - (d) provide that any decision to which this paragraph applies—
 - (i) is to be made by the Secretary of State rather than the Board, or by the Board rather than the Secretary of State, and
 - (ii) is to be made subject to the provisions of Chapter II of Part I of the Social Security Act 1998, or subject to the provisions of Part II of this Act rather than the provisions of that Chapter.
- (2) In subsection (1) above “transferable function” means—
 - (a) any function relating to contributions or the National Insurance Fund, other than functions under section 1(1) of the Social Security Contributions and Benefits Act 1992 (receipt of contributions) or section 161(1) of the Social Security Administration Act 1992 (control and management of National Insurance Fund),
 - (b) any function relating to statutory sick pay or statutory maternity pay,
 - (c) any function under section 7 of the Social Security Act 1986 (occupational pension schemes becoming contracted-out between 1986 and 1993), so far as that section remains in force by virtue of paragraph 22 of Schedule 6 to the Pension Schemes Act 1993, or
 - (d) any function under Part III of the Pension Schemes Act 1993.
- (3) The decisions to which subsection (1)(d) above applies are—
 - (a) any decision which is or has been specified—
 - (i) in section 8(1) of this Act,
 - (ii) in section 170(2) of the Pension Schemes Act 1993 (as amended by section 16(2) of this Act), or
 - (iii) in paragraph 16 or 17 of Schedule 3 to the Social Security Act 1998, and

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- (b) any other decision relating to contributions, the National Insurance Fund, statutory sick pay, statutory maternity pay or the subject-matter of Part III of the Pension Schemes Act 1993.
- (4) An Order in Council under this section may contain such supplemental, consequential or transitional provision as appears to Her Majesty to be expedient, including provision—
- (a) for the transfer of any property, rights and liabilities held, enjoyed or incurred by the Secretary of State or the Board in connection with any functions transferred,
 - (b) for the carrying on and completion by or under the authority of the person to whom any functions are transferred of anything commenced by or under the authority of the person from whom they are transferred before the date when the Order takes effect,
 - (c) as to the effect of any provision made by virtue of subsection (1)(d) above on decisions or proceedings made or commenced before the date when the Order takes effect,
 - (d) making such amendments of any enactment, including any enactment contained in this Act, as may be necessary for the purposes of the Order, and
 - (e) for the substitution of the person to whom any functions are transferred for the person from whom they are transferred in any instrument, contract or legal proceedings made or commenced before the date when the Order takes effect.
- (5) A certificate issued by a relevant authority that any property vested in the other relevant authority immediately before an Order under this section takes effect has been transferred by virtue of the Order to the relevant authority issuing the certificate shall be conclusive evidence of the transfer; and in this subsection “relevant authority” means the Secretary of State or the Board.
- (6) In the application of this section to Northern Ireland—
- (a) references to the Secretary of State include references to the Department of Health and Social Services for Northern Ireland,
 - (b) “contributions” means contributions under Part I of the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 - (c) references to Chapter II of Part I of, and paragraphs 16 and 17 of Schedule 3 to, the Social Security Act 1998 have effect as references to Chapter II of Part II of, and paragraphs 16 and 17 of Schedule 3 to, the Social Security (Northern Ireland) Order 1998,
 - (d) the reference to the National Insurance Fund has effect as a reference to the Northern Ireland National Insurance Fund,
 - (e) references to section 1(1) of the Social Security Contributions and Benefits Act 1992 and section 161(1) of the Social Security Administration Act 1992 have effect as references to section 1(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and section 141(1) of the Social Security Administration (Northern Ireland) Act 1992,
 - (f) references to section 7 of the Social Security Act 1986 and paragraph 22 of Schedule 6 to the Pension Schemes Act 1993 have effect as references to Article 9 of the Social Security (Northern Ireland) Order 1986 and paragraph 21 of Schedule 5 to the Pension Schemes (Northern Ireland) Act 1993, and
 - (g) the reference to Part III of the Pension Schemes Act 1993 has effect as a reference to Part III of the Pension Schemes (Northern Ireland) Act 1993;

and for the purposes of this section in its application to Northern Ireland any reference in section 8(1) of this Act or section 170(2) of the Pension Schemes Act 1993 to a decision is to be taken to be a reference to the corresponding decision under Northern Ireland legislation.

24 Provision for Northern Ireland

- (1) Her Majesty may by Order in Council do any of the following—
 - (a) make provision for transferring from the relevant Northern Ireland authority to the Board any function in relation to Northern Ireland corresponding to a function transferred to the Board by virtue of section 1 of this Act,
 - (b) make provision for transferring from the relevant Northern Ireland authority to the Secretary of State any other function in relation to Northern Ireland which relates to any of the matters specified in paragraph 10 of Schedule 2 to the Northern Ireland Act 1998 (excepted matters),
 - (c) make provision for transferring from the relevant Northern Ireland authority to the Board or the Treasury any function in relation to Northern Ireland corresponding to a function transferred to the Board or, as the case may be, the Treasury by virtue of section 2 of this Act, and
 - (d) make other provision for Northern Ireland for purposes corresponding to any or all of the purposes of those provisions of this Act which do not extend to Northern Ireland.
- (2) If an Order in Council made under this section by virtue of subsection (1)(b) above has transferred to the Secretary of State any function in relation to Northern Ireland which corresponds to a function transferred to the Board or the Treasury by virtue of section 2 of this Act, Her Majesty may by a further Order in Council under this section make provision for transferring that function from the Secretary of State to the Board or, as the case may be, the Treasury.
- (3) An Order in Council under this section may, for the purposes of the Order—
 - (a) amend any enactment, including any enactment contained in this Act,
 - (b) confer, extend or modify any power to legislate by means of an order or regulations, and
 - (c) contain such incidental, supplemental, consequential or transitional provision as appears to Her Majesty to be expedient, including—
 - (i) provision modifying references in any enactment to the Northern Ireland Assembly, to statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979 or to the Comptroller and Auditor General for Northern Ireland,
 - (ii) provision for the transfer of property, rights and liabilities, and
 - (iii) provision for the transfer to Her Majesty's Home Civil Service of persons employed in the Northern Ireland Civil Service.
- (4) A certificate issued by the Board, the Secretary of State or the Treasury that any property vested in a Northern Ireland department immediately before an Order under this section takes effect has been transferred by virtue of the Order to the Board, the Secretary of State or the Treasury, as the case may be, shall be conclusive evidence of the transfer.
- (5) A certificate issued by the Board or the Treasury that any property vested in the Secretary of State immediately before an Order under this section takes effect has been

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transferred by virtue of the Order to the Board or the Treasury, as the case may be, shall be conclusive evidence of the transfer.

- (6) Subsection (2) above does not limit the powers conferred by section 23 of this Act in relation to Northern Ireland.
- (7) In this section “the relevant Northern Ireland authority”, in relation to any function, means the Northern Ireland department by which the function is exercisable.

25 Orders and regulations

- (1) Any power of the Secretary of State or the Board to make an order or regulations under this Act shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing—
 - (a) an Order in Council under section 23 or 24 of this Act, or
 - (b) regulations under any provision of this Act,
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make regulations may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
 - (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
 - (iii) any such provision either unconditionally or subject to any specified condition;
 and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.
- (4) Powers to make regulations for the purposes of any one provision of this Act are without prejudice to powers to make regulations for the purposes of any other provision.
- (5) A power conferred by this Act to make regulations includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations to be expedient for the purposes of those regulations.
- (6) A power conferred by this Act to make regulations includes power to provide for a person to exercise a discretion in dealing with any matter.

26 Savings, transitional provisions, consequential amendments, repeals and revocations

- (1) The provisions of this Act shall have effect subject to the savings and transitional provisions in Schedule 8 to this Act.

(2) Schedule 9 to this Act (further consequential amendments) shall have effect.

(3) Schedule 10 to this Act (repeals and revocations) shall have effect.

27 Interpretation

In this Act, unless a contrary intention appears—

“the Board” means the Commissioners of Inland Revenue;

“contributions” means contributions under Part I of the Social Security Contributions and Benefits Act 1992.

28 Short title, commencement and extent

(1) This Act may be cited as the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(2) The following provisions of this Act—

- (a) section 1(1) (with Schedule 1), so far as enabling the Secretary of State to make subordinate legislation conferring functions on the Board,
- (b) sections 8 to 15, so far as conferring any power to make subordinate legislation,
- (c) section 17,
- (d) section 20,
- (e) section 22(4), so far as conferring the power to make an order,
- (f) sections 24 and 25,
- (g) section 26(1) (with Schedule 8), and
- (h) section 27 and this section,

shall come into force on the passing of this Act.

(3) Except as provided by subsection (2) above, the provisions of this Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.

(4) An order under subsection (3) above may make such savings, or such transitional or consequential provision, as the Secretary of State considers necessary or expedient—

- (a) in preparation for or in connection with the coming into force of any provision of this Act, or
- (b) in connection with the operation of any enactment repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

(5) The following provisions of this Act extend to Northern Ireland—

- (a) section 1 and Schedule 1, so far as they amend the Income and Corporation Taxes Act 1988,
- (b) section 2 and Schedule 3, so far as they amend section 177 of the Social Security Administration Act 1992 or section 88 of the Northern Ireland Act 1998,
- (c) section 3,
- (d) section 4 and Schedule 4,

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- (e) section 5 and Schedule 5, so far as they amend the Taxes Management Act 1970,
 - (f) section 18 and Schedule 7, so far as they amend the Taxes Management Act 1970, Schedule 2 to the Social Security Contributions and Benefits Act 1992 or Schedule 2 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 - (g) section 6 and Schedule 6, so far as they amend the Finance Act 1989 or the Finance Act 1997,
 - (h) section 7,
 - (i) sections 23 to 25,
 - (j) section 26(3) and Schedule 10, so far as they relate to any enactment which extends to Northern Ireland, and
 - (k) section 27 and this section.
- (6) Section 20(2) and (4) of this Act extends to Northern Ireland only.
- (7) Except as provided by subsections (5) and (6) above, this Act does not extend to Northern Ireland.