

PENSIONS ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1: Part 2: Category B retirement pension: removal of restriction on entitlement

123. *Part 2* of this Schedule makes amendments to Part 2 of the SSCBA1992 consequential on *section 2*.
124. *Paragraph 6* amends section 54 of that Act by omitting subsection (3), which currently prevents a spouse or civil partner from electing to cancel his or her Category A pension where this is already in payment without the consent of the other party to the marriage or civil partnership. The provision becomes redundant by virtue of the amendments made to section 48A by *section 2*.
125. *Paragraph 7* amends subsection (3) of section 55 of that Act so that a person's entitlement to their Category B pension is no longer deemed to be deferred where the person's spouse or civil partner has not made a claim for his or her Category A pension.
126. *Paragraph 8* amends paragraph 8 of Schedule 5 to the Act by omitting subparagraph (3), which also becomes redundant as a result of the amendments made to section 48A by *section 2*.

Section 3: Contributions credits for relevant parents and carers

127. *Section 3* amends the SSCBA1992 to replace the existing home responsibilities protection with new crediting arrangements for parents, approved foster parents and carers reaching state pension age on or after 6 April 2010.
128. In order to achieve this *subsection (1)* inserts new section 23A into the SSCBA1992.

Provisions of new section 23A

129. *Subsection (1)* provides that the new crediting arrangements for parents and carers apply to the following benefits:
 - a Category A pension for a pensioner who reaches state pension age on or after 6 April 2010;
 - a Category B pension for the spouse or civil partner of a person reaching state pension age on or after 6 April 2010 (or who dies on or after that date without reaching that age); and
 - widowed parent's allowance or bereavement allowance payable to the surviving spouse of a person who dies on or after 6 April 2010 who has not yet reached state pension age. Entitlement to both benefits would be based on the deceased's contribution record.
130. *Subsection (2)* would allow the contributor concerned in relation to the benefits referred to in paragraph 129 above to be credited with a Class 3 National Insurance credit for

*These notes refer to the Pensions Act 2007 (c.22)
which received Royal Assent on 26 July 2007*

each week after 6 April 2010 in which they are a relevant carer as defined in *subsection (3)*.

131. *Subsection (3)* defines a person as a relevant carer in respect of a week if, they are:
- a parent or guardian awarded child benefit for a child aged under 12 for any part of that week;
 - a foster parent for any part of that week; or
 - “engaged in caring” in that week. This is intended to be defined in regulations to cover someone who provides care for one or more severely disabled persons for at least 20 hours a week. The regulations are also intended to allow a person caring for a child under 12 to be treated as engaged in caring in circumstances where there is another carer for that child who is entitled to credits by virtue of *subsection (3)(a)* but who does not need them, because the tax year in question is already a qualifying year for that person.
132. *Subsection (4)* provides a regulation-making power to make entitlement to the credits for foster parents and those engaged in caring to be conditional on the application process being complied with, and on the prescribed information being provided. The information that will be required is information that would confirm that a person is undertaking qualifying care.
133. *Subsections (5) to (7)* allow contributors reaching state pension age, or dying on or after 6 April 2010 to have any complete years of home responsibilities protection, acquired before 6 April 2010, converted to an equivalent number of fully credited years for the purposes of entitlement to basic state pension and bereavement benefits. The number of home responsibilities protection years which may be converted to qualifying years will be subject to upper limits broadly along the lines of the existing rules. In the case of a Category A or B pension that limit is 22 years. In the case of widowed parent’s allowance or bereavement allowance it is half the requisite number of years in the contributor’s working life.
134. *Subsection (8)* provides that in circumstances where a week straddles two tax years, a credit for that week would be attributed to the tax year in which the week begins.
135. *Subsection (9)* enacts both definitions and regulation-making powers for the purposes of new section 23A. In particular, it enables “foster parent” to be defined in regulations. The intention is to mirror the definition in regulation 1(2)(a) of the [Social Security Pensions \(Home Responsibilities\) Regulations 1994 \(SI 1994/ 704\)](#).