

SCHEDULES

SCHEDULE 4

Section 104

ADDITIONAL PENSION ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

Social Security Contributions and Benefits Act 1992 (c. 4)

- 1 The Social Security Contributions and Benefits Act 1992 is amended as follows.
- 2 In section 21(5A)(c) (contribution conditions), after “5(2)(b) and (4)(a)” insert “, 5A(3)(a)”.
- 3 In section 39(1) (rate of widowed mother’s allowance and widow’s pension), for “46(2)” substitute “46”.
- 4 (1) Section 39C (rate of widowed parent’s allowance and bereavement allowance) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “45” substitute “45AA”;
 - (b) for “and Schedule 4A” substitute “and Schedules 4A to 4C”;
 - (c) for “46(2) and (4)” substitute “46”.
 - (3) In subsections (3) and (4)—
 - (a) for “45” substitute “45AA”;
 - (b) for “and Schedule 4A” substitute “and Schedules 4A to 4C”.
- 5 (1) After section 45 (additional pension in Category A retirement pension) insert—

“45AA Effect of working families' tax credit and disabled person’s tax credit on earnings factor

- (1) For the purposes of calculating additional pension under sections 44 and 45 where, in the case of any relevant year, working families' tax credit is paid in respect of any employed earner, or disabled person’s tax credit is paid to any employed earner, section 44(6)(a)(i) shall have effect as if—
 - (a) where that person had earnings of not less than the qualifying earnings factor for that year, being earnings upon which primary class 1 contributions were paid or treated as paid (“qualifying earnings”) in respect of that year, the amount of those qualifying earnings were increased by the aggregate amount (“AG”) of working families' tax credit, or, as the case may be, disabled person’s tax credit paid in respect of that year, and
 - (b) in any other case, that person had qualifying earnings in respect of that year and the amount of those qualifying earnings were equal to AG plus the qualifying earnings factor for that year.
- (2) The reference in subsection (1) to the person in respect of whom working families' tax credit is paid—

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- (a) where it is paid to one of a couple, is a reference to the prescribed member of the couple, and
 - (b) in any other case, is a reference to the person to whom it is paid.
- (3) A person’s qualifying earnings in respect of any year cannot be treated by virtue of subsection (1) as exceeding the upper earnings limit for that year multiplied by 53.
- (4) Subsection (1) does not apply to any woman who has made, or is treated as having made, an election under regulations under section 19(4), which has not been revoked, that her liability in respect of primary Class 1 contributions shall be at a reduced rate.
- (5) In this section—
- “couple” has the same meaning as in Part 7 (see section 137);
 - “relevant year” has the same meaning as in section 44.”
- (2) Sub-paragraph (1), together with paragraphs 4(2)(a) and (3)(a), 9(2)(a) and (3)(a) and 11 (which make amendments consequential on sub-paragraph (1)), are referred to in the following provisions of this paragraph as “the relevant provisions”.
- (3) Subject to sub-paragraphs (4) and (5), the relevant provisions apply to a person (“the pensioner”) who attains pensionable age after 5 April 1999 and, in relation to such a person—
- (a) have effect for 1995-96 and subsequent tax years, and
 - (b) are deemed so to have had effect (with the necessary modifications) during the period—
 - (i) beginning with 6 April 2003, and
 - (ii) ending with the coming into force of this paragraph.
- (4) Where the pensioner is a woman, the relevant provisions have effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 (c. 4) by virtue of section 39 of that Act (widowed mother’s allowance and widow’s pension), including Category B retirement pension payable under section 48B(4), if her husband—
- (a) dies after 5 April 1999, and
 - (b) has not attained pensionable age on or before that date.
- (5) The relevant provisions have effect, where additional pension falls to be calculated under sections 44 and 45 of the Social Security Contributions and Benefits Act 1992 as applied by section 48A or 48B(2) of that Act (other Category B retirement pension) if—
- (a) the pensioner attains pensionable age after 5 April 1999, and
 - (b) the pensioner’s spouse has not attained pensionable age on or before that date.
- 6 (1) Section 46 (modifications of section 45 for calculating the additional pension in certain benefits) is amended as follows.
- (2) In subsection (2), for “, 48B(2) or 48BB(5)” substitute “or 48B(2)”.
- (3) After subsection (4) insert—

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- “(5) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of prescribed provisions of this Act, that section has effect subject to the following modifications—
- (a) the omission in subsection (2) of the words “but before 6th April 2020”, and
 - (b) the omission of subsection (2A).
- (6) Regulations under subsection (5) may prescribe a provision in relation to—
- (a) all cases, or
 - (b) cases of a prescribed description.”
- 7 In section 48A(4) (category B retirement pension for married person)—
- (a) for “and 4B” substitute “to 4C”;
 - (b) for “46(2)” substitute “46”.
- 8 In section 48B(2) (category B retirement pension for widows and widowers)—
- (a) for “and 4B” substitute “to 4C”;
 - (b) for “46(2)” substitute “46”.
- 9 (1) Section 48BB (category B retirement pension: entitlement by reference to benefits under section 39A or 39B) is amended as follows.
- (2) In subsection (5)—
- (a) for “45” substitute “45AA”;
 - (b) after “45AA” (inserted by paragraph (a) above) insert “and 45B”;
 - (c) for “and 4B” substitute “to 4C”;
 - (d) for “46(3)” substitute “46”.
- (3) In subsection (6)—
- (a) for “45” substitute “45AA”;
 - (b) after “45AA” (inserted by paragraph (a) above) insert “and 45B”.
- 10 In section 48C(4) (category B retirement pension: general), for “and 4B” substitute “to 4C”.
- 11 In section 51(2) and (3) (category B retirement pension for widowers), for “45” substitute “45AA”.
- 12 (1) Schedule 4B (additional pension: accrual rates for purposes of section 45(2)(d)) is amended as follows.
- (2) In paragraph 2 (application of Part 2 of Schedule)—
- (a) after “if” insert “—
(a)”;
 - (b) after paragraph (a) (created by virtue of paragraph (a) above) insert “and
(b) there is a surplus in the pensioner’s earnings factor for the year.”
- (3) In paragraph 3 (appropriate amount for year)—
- (a) in paragraph (a), for the words from “there is” to “which” substitute “the pensioner’s earnings factor for the year”;
 - (b) in paragraph (b), for “there is such a surplus which” substitute “that earnings factor”.

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- (4) In paragraph 5(a), for “surplus” substitute “earnings factor”.
 - (5) In paragraph 6 (application of Part 3 of Schedule)—
 - (a) after “if” insert “—
 (a)”;
 - (b) after paragraph (a) (created by virtue of paragraph (a) above) insert “and
 (b) there would be a surplus in the pensioner’s earnings factor for the year if section 48A of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year.”
 - (6) In paragraph 8(1) (calculation of amount A: assumed surplus not exceeding LET), for the words from “there” to “which” substitute “the pensioner’s assumed earnings factor for the year”; and, accordingly, in the heading before paragraph 8 for “*surplus*” substitute “*earnings factor*”.
 - (7) In paragraph 9 (calculation of amount A: assumed surplus exceeding LET)—
 - (a) in sub-paragraph (1), for the words from “there” to “which” substitute “the pensioner’s assumed earnings factor for the year”;
 - (b) in sub-paragraph (2)(a), for “assumed surplus” substitute “assumed earnings factor”,
 and accordingly in the heading before paragraph 9 for “*surplus*” substitute “*earnings factor*”.
 - (8) In paragraph 10(1)(a) (amount B), for “assumed surplus” substitute “pensioner’s assumed earnings factor”.
 - (9) In paragraph 12 (interpretation)—
 - (a) omit the definition of “assumed surplus”;
 - (b) after the definition of “the QEF” insert—

““the pensioner’s assumed earnings factor”, in relation to a year, means the earnings factor that the pensioner would have for the year if section 48A(1) of the Pension Schemes Act 1993 did not apply in relation to any tax week falling in the year.”
- 13 In Schedule 7 (industrial injuries benefits) in paragraph 3(3), after “section 46” insert “or 46A”.

Social Security Administration Act 1992 (c. 5)

- 14 After section 148AA of the Social Security Administration Act 1992 (revaluation of flat rate accrual amount) insert—

“148AB Revaluation of consolidated amount

- (1) The Secretary of State shall, in the tax year following the flat rate introduction year and in each subsequent tax year, review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.
- (2) In this section “the review period” means the period since such day in the tax year preceding the flat rate introduction year as the Secretary of State may determine.

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- (3) If on a review it appears to the Secretary of State that the general level of earnings has increased during the review period, the Secretary of State must make an order under this section specifying the percentage of the increase.
- (4) The percentage specified in the order is the “revaluing percentage” for the purposes of Schedule 4C to the Contributions and Benefits Act (additional pension: calculation of revalued consolidated amount).
- (5) Subsection (3) does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on amounts calculated in accordance with that Schedule would be inconsiderable.
- (6) The Secretary of State may, for the purposes of subsection (3), adjust any amount by rounding it up or down to such extent as the Secretary of State thinks appropriate.
- (7) If on a review the Secretary of State determines that no order under this section is required, the Secretary of State must lay before Parliament a report explaining the reasons for arriving at that determination.
- (8) For the purposes of a review under this section the Secretary of State shall estimate the general level of earnings in such manner as the Secretary of State thinks fit.”

Pension Schemes Act 1993 (c. 48)

- 15 The Pension Schemes Act 1993 is amended as follows.
- 16 (1) Section 46 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) is amended as follows.
- (2) In subsection (6), in the substitute paragraph 3(3) of Schedule 7 to the Social Security Contributions and Benefits Act 1992, after “section 46(1)” insert “or 46A(2)”.
- 17 (1) Section 47 (further provisions concerning entitlement to guaranteed minimum pensions) is amended as follows.
- (2) At the end of the heading add “and s.46A”.
- (3) In subsections (2), (3), (5), (6), (7), (8) and (9), for “section 46” substitute “sections 46 and 46A”.
- 18 In section 48(2) (reduced benefits where minimum payments or minimum contributions paid), for “section 46” substitute “sections 46 and 46A”.
- 19 In section 49(b) (women, married women and widows), after “46(1),” insert “46A(2),”.
- 20 In section 164(5) (Crown employment), after “46(1),” insert “46A(2),”.
- 21 In section 165(2)(b) (cases with a foreign element), after “those subsections,” insert “section 46A(2),”.
- 22 (1) In section 167(4) (application of provisions relating to social security administration), for “section 46” substitute “sections 46 and 46A”.
- (2) Sub-paragraph (1) has effect only until the repeal of section 167(4) by the Social Security Act 1998 (c. 14) has come into force for all purposes.