Pensions Act 2008

2008 CHAPTER 30

PART 5

MISCELLANEOUS

State and official pensions

135 Additional Class 3 contributions

(1) The Social Security Contributions and Benefits Act 1992 (c. 4) is amended as follows.

(2) After section 13 insert—

"**13A Right to pay additional Class 3 contributions in certain cases**

(1) An eligible person is entitled, if he so wishes, but subject to any conditions prescribed by regulations made by the Treasury and to the following provisions of this section, to pay Class 3 contributions in respect of a missing year.

(2) A missing year is a tax year not earlier than 1975-76 in respect of which the person would under regulations under section 13 be entitled to pay Class 3 contributions but for a limit on the time within which contributions may be paid in respect of that year.

(3) A person is not entitled to pay contributions in respect of more than 6 tax years under this section.

(4) A person is not entitled to pay any contribution under this section after the end of 6 years beginning with the day on which he attains pensionable age.

(5) A person is an eligible person if the following conditions are satisfied.

(6) The first condition is that the person attained or will attain pensionable age in the period—

(a) beginning with 6th April 2008, and

(b) ending with 5th April 2015.

(7) The second condition is that there are at least 20 tax years each of which is a year to which subsection (8) or (10) applies.

(8) This subsection applies if—

(a) the year is one in respect of which the person has paid or been credited with contributions that are of a relevant class for the purposes of paragraph 5 or 5A of Schedule 3 or been credited (in the case of 1987-88 or any subsequent year) with earnings, and

(b) in the case of that year, the earnings factor derived as mentioned in subsection (9) is not less than the qualifying earnings factor for that year.

(9) For the purposes of subsection (8)(b) the earnings factor—

(a) in the case of 1987-88 or any subsequent year, is that which is derived from—

(i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection (8)(a) as are primary Class 1 contributions were paid or treated as paid or earnings credited, and

(ii) any Class 2 or Class 3 contributions for the year, or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (8)(a).

(10) This subsection applies (in the case of a person who attained or will attain pensionable age before 6th April 2010) if the year is one in which the person was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3.

(11) The third condition applies only if the person attained or will attain pensionable age before 6th April 2010.

(12) That condition is that—

(a) the person has, in respect of any one tax year before that in which he attains pensionable age, actually paid contributions that are of a relevant class for the purposes of paragraph 5 of Schedule 3, and

(b) in the case of that year, the earnings factor derived as mentioned in subsection (13) is not less than the qualifying earnings factor for that year.

(13) For the purposes of subsection (12)(b) the earnings factor—

(a) in the case of 1987-88 or any subsequent year, is that which is derived from—

(i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection (12)(a) as are primary Class 1 contributions were paid or treated as paid, and

(ii) any Class 2 or Class 3 contributions for the year, or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (12)(a)."

(3) In section 1(2)(d) (outline of contribution system) after "section 13" insert "or 13A".

136 Additional Class 3 contributions (Northern Ireland)

(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) is amended as follows.

(2) After section 13 insert—

"**13A Right to pay additional Class 3 contributions in certain cases**

(1) An eligible person is entitled, if he so wishes, but subject to any conditions prescribed by regulations made by the Treasury and to the following provisions of this section, to pay Class 3 contributions in respect of a missing year.

(2) A missing year is a tax year not earlier than 1975-76 in respect of which the person would under regulations under section 13 be entitled to pay Class 3 contributions but for a limit on the time within which contributions may be paid in respect of that year.

(3) A person is not entitled to pay contributions in respect of more than 6 tax years under this section.

(4) A person is not entitled to pay any contribution under this section after the end of 6 years beginning with the day on which he attains pensionable age.

(5) A person is an eligible person if the following conditions are satisfied.

(6) The first condition is that the person attained or will attain pensionable age in the period—
  (a) beginning with 6th April 2008, and
  (b) ending with 5th April 2015.

(7) The second condition is that there are at least 20 tax years each of which is a year to which subsection (8) or (10) applies.

(8) This subsection applies if—
  (a) the year is one in respect of which the person has paid or been credited with contributions that are of a relevant class for the purposes of paragraph 5 or 5A of Schedule 3 or been credited (in the case of 1987-88 or any subsequent year) with earnings, and
  (b) in the case of that year, the earnings factor derived as mentioned in subsection (9) is not less than the qualifying earnings factor for that year.

(9) For the purposes of subsection (8)(b) the earnings factor—
  (a) in the case of 1987-88 or any subsequent year, is that which is derived from—
    (i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection (8)(a) as are primary Class 1 contributions were paid or treated as paid or earnings credited, and

(ii) any Class 2 or Class 3 contributions for the year, or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (8)(a).

(10) This subsection applies (in the case of a person who attained or will attain pensionable age before 6th April 2010) if the year is one in which the person was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3.

(11) The third condition applies only if the person attained or will attain pensionable age before 6th April 2010.

(12) That condition is that—

(a) the person has, in respect of any one tax year before that in which he attains pensionable age, actually paid contributions that are of a relevant class for the purposes of paragraph 5 of Schedule 3, and

(b) in the case of that year, the earnings factor derived as mentioned in subsection (13) is not less than the qualifying earnings factor for that year.

(13) For the purposes of subsection (12)(b) the earnings factor—

(a) in the case of 1987-88 or any subsequent year, is that which is derived from—

(i) so much of the person's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in subsection (12)(a) as are primary Class 1 contributions were paid or treated as paid, and

(ii) any Class 2 or Class 3 contributions for the year, or

(b) in the case of any earlier year, is that which is derived from the contributions mentioned in subsection (12)(a)."

(3) In section 1(2)(d) (outline of contribution system) after "section 13" insert "or 13A".

137 Official pensions: adjustment of increases in survivors' pensions

(1) Section 59 of the Social Security Pensions Act 1975 (c. 60) (increase of official pensions) is amended as follows.

(2) Subsection (5ZA) is amended as follows.

(3) In the words before paragraph (a)—

(a) for "or widower's" substitute ", widower's or surviving civil partner's";

(b) after "spouse" insert "or civil partner".

(4) In paragraph (a), after "spouse" insert "or civil partner".

(5) In paragraph (b)—

(a) after "period" insert "("the relevant time")";

(b) for the words from "one half" to the end substitute "the rate provided for in subsection (5ZB);".

(6) In paragraph (c), for "or widower's" substitute ", widower's or surviving civil partner's".

(7) Omit the words from "but this subsection" to the end.

(8) After subsection (5ZA) insert—

"(5ZB) The rate referred to in subsection (5ZA)(b) is—

(a) in the case of a widow's pension, one half of the rate of the deceased husband's guaranteed minimum pension at the relevant time;

(b) in the case of a widower's pension, one half of so much of the rate of the deceased wife's guaranteed minimum pension at the relevant time as is attributable to earnings factors for the tax year 1988-89 and subsequent tax years;

(c) in the case of a surviving civil partner's pension, one half of so much of the rate of the deceased civil partner's guaranteed minimum pension at the relevant time as is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(5ZC) Subsection (5ZA)—

(a) does not apply to a widow's or widower's pension in respect of any service of the deceased spouse if the deceased spouse's pension in respect of that service became payable before 24 July 1990;

(b) applies to a surviving civil partner's pension only in respect of amounts payable after the coming into force of this subsection."

138 War pensions: effect of later marriage or civil partnership

(1) Section 168 of the Pensions Act 1995 (c. 26) (war pensions for widows: effect of remarriage) is amended as follows.

(2) For subsection (1) substitute—

"(1) In determining whether a pension is payable to a person as a widow, widower or surviving civil partner under any of the enactments mentioned in subsection (3) in respect of any period beginning on or after the commencement date, no account may be taken of the fact that the person has married or formed a civil partnership with another person if, before the beginning of that period—

(a) the marriage or civil partnership has been terminated,

(b) the parties to it have been judicially separated, or

(c) in the case of a civil partnership, a separation order has been made in respect of the parties.

(1A) The commencement date is—

(a) for the purpose of determining whether a pension is payable to a person as a widow or widower, 19 July 1995;

(b) for the purpose of determining whether a pension is payable to a person as a surviving civil partner, 5 December 2005."

(3) In subsection (2), in paragraph (a)—

(a) after "a marriage" insert "or civil partnership";

(b) for "the termination of the marriage" substitute "its termination".

(4) In that subsection, after "divorce" insert ", dissolution".

(5) In subsection (3)(a), for "The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983" substitute "The Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006".

139 Polish Resettlement Act 1947: effect of residence in Poland

(1) In section 1(3) of the Polish Resettlement Act 1947 (c. 19) (power to apply Royal Warrant as to pensions etc to certain Polish forces) for ", and the scheme shall contain provision for securing that no payment shall be made thereunder to or in respect of any person as to whom the Secretary of State is satisfied that he is resident in Poland" substitute "(including exceptions applying by virtue of a person's residence in Poland at any time prior to 1 May 2004)".

(2) Subsection (3) below applies where—

(a) a person ("A") was resident in Poland at any time in the relevant period, and

(b) but for that fact, an amount would have been payable to or in respect of A under the scheme made under section 1 of the Polish Resettlement Act 1947.

(3) The power to make the scheme includes power to make provision for payments to or in respect of A in relation to any part of the relevant period.

(4) In this section "the relevant period" means the period beginning with 1 May 2004 and ending with the coming into force of this section.

140 Pre-1948 insurance affecting German pension entitlement

(1) This section applies where the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is satisfied if it appears to the Secretary of State that a person (the "pensioner") is, or was immediately before death, a person—

(a) whose German pension entitlement is (or was) reduced by one or more periods of pre-1948 insurance, or

(b) who would have (or would have had) a German pension entitlement, but for one or more periods of pre-1948 insurance.

(3) The second condition is satisfied if—

(a) the insured person entered the United Kingdom as an unaccompanied child directly or indirectly from Germany, Austria, Czechoslovakia or Poland in the period beginning with 2 December 1938 and ending with 31 May 1940, or

(b) the Secretary of State otherwise considers it appropriate to give a direction under subsection (4).

(4) At the request of the pensioner or (where the pensioner is dead) any other person claiming to be affected, the Secretary of State may direct that, on the giving of the direction, subsection (5) takes effect in relation to the period or periods of pre-1948 insurance.

(5) On this subsection taking effect in relation to any period—

(a) the insured person is deemed not to have been, not to have been deemed to be, and not to have been treated as being, insured for that period under the Widows', Orphans' and Old Age Contributory Pensions Acts 1936 to 1941 or under any provision of Northern Ireland legislation corresponding to those Acts, and

(b) any contribution mentioned in section 141(2)(b) or (c) is deemed not to have been credited to the insured person.

(6) The Secretary of State may give directions specifying how any request for the purposes of subsection (4) must be made.

(7) Where subsection (5) has taken effect in relation to a period or periods of pre-1948 insurance, the relevant authority may pay to any person an amount not exceeding any amount that would, but for subsection (5), have been payable to that person in respect of—

(a) a benefit specified in section 20(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) (contributory benefits), or

(b) a benefit specified in any provision of Northern Ireland legislation corresponding to that provision.

(8) In this section—

"child" means a person aged under 18;

"German pension entitlement" means entitlement to benefits arising under insurance with the Deutsche Rentenversicherung, or any other entitlement that appears to the Secretary of State to be relevant for the purposes of this section;

"insured person" is to be read in accordance with section 141;

the "relevant authority" means—

(a) in relation to a benefit within subsection (7)(b), the Department for Social Development in Northern Ireland;

(b) in any other case, the Secretary of State;

"unaccompanied" means unaccompanied by an adult family member.

141 Pre-1948 insurance: supplementary

(1) In section 140 a "period of pre-1948 insurance" means any period ending before 6 April 1948 to which subsection (2) applies by reference to any person ("the insured person").

(2) This subsection applies to a period which is one of the following—

(a) a period for which the insured person at any time was, was deemed to be, or was treated as, insured under the Widows', Orphans' and Old Age Contributory Pensions Acts 1936 to 1941, or under any provision of Northern Ireland legislation corresponding to those Acts;

(b) a period for or in respect of which contributions of any class were credited to the insured person in accordance with the provisions of the National Insurance Act 1965 (c. 51) or regulations made under that Act, or in accordance with any provision of Northern Ireland legislation corresponding to that Act or such regulations;

(c) a period for which contributions are credited to the insured person by any provision of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 (S.I. 1979/643), or by any provision of Northern Ireland legislation corresponding to a provision of those regulations.