These notes refer to the Pensions Act (Northern Ireland) 2008 (c.1) which received Royal Assent on 11 February 2008

Pensions Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 1: State pension

Entitlement to Category A and B retirement pensions

Section 7: Deemed earnings factors for purposes of additional pension

Section 7(1) inserts new sections 44B and 44C into the Contributions and Benefits Act.

New section 44B(1) ensures that deemed earnings factors can only be accrued under the new provisions for tax years from 2010-11 onwards. This means that the new provisions only apply to those who have not yet reached state pension age at that time (a person cannot continue to build up entitlement to state second pension once they have reached state pension age).

Subsection (2) provides that an individual who satisfies any of the new Conditions A, B and C set out in subsections (3), (4) and (5) would be deemed to be earning at the low earnings threshold. Those Conditions are:

- Condition A which is satisfied if an individual has earnings at or above the qualifying earnings factor (52 times the lower earnings limit) but less than the low earnings threshold.
- Condition B which is satisfied if an individual has earnings at less than the qualifying earnings factor but has some of the new earnings factor credits (see commentary on new section 44C below) which may be added to their earnings to bring them up to the qualifying earnings factor.
- Condition C which is satisfied if an individual has 52 earnings factor credits by virtue of new section 44C. This would equate to the qualifying earnings factor.

Subsection (6) ensures that from the first year in which the flat rate of accrual is introduced for the additional pension ("flat rate introduction year"), the effect of section 44B will simply be to provide deemed earnings factors above the qualifying earnings factor but below the low earnings threshold, as that will be sufficient to enable them to accrue state second pension at the new weekly flat rate. Condition A will not operate at that stage, since the persons to whom it applies will already have actual earnings over the qualifying earnings factor.

Subsection (7)(a) defines "the applicable limit", which is the upper earnings limit until the flat rate introduction year. At that point, the applicable limit becomes the upper accrual point (see *section 10(1)(b)* and *(2)(b)*).

Subsection (7)(b) defines the low earnings threshold by reference to the definition in section 44A of the Contributions and Benefits Act.

Subsection (7)(c) makes it clear that the earnings factors described in Conditions A and B are derived from primary Class 1 employed earnings below the applicable limit.

New section 44C of the Contributions and Benefits Act applies for the purposes of Conditions B and C specified in section 44B(4) and (5) for tax years from 2010-11 onwards (subsection (1)).

Subsection (2) provides that an individual may enhance their earning factors in any tax year if, for any week in that year, the person is eligible (as specified by subsection (3)). For each week in which the person is eligible, they are entitled to an earnings factor credit equal to 1/52 of the qualifying earnings factor for that year (i.e. the lower earnings limit).

Subsection (3) specifies the persons who are eligible for earnings enhancement. They are:

- paragraph (a) - relevant carers (i.e. those entitled to credits for basic state pension purposes under new section 23A (see *section 3(1)*);
- paragraph (b) - broadly, persons in receipt of carer's allowance;
- paragraph (c) - persons to whom severe disablement allowance is payable;
- paragraph (d) - broadly, persons to whom long-term incapacity benefit is payable (incapacity benefit will be replaced by employment and support allowance under the Welfare Reform Act (Northern Ireland) 2007 (c. 2)); and
- paragraph (e) - persons satisfying such conditions as may be set out in regulations. This power will allow persons receiving other benefits to be eligible for earnings enhancement. For example, this could be used to award earnings factor credits to employment support allowance recipients.

Subsection (5) ensures that an individual who has some earnings from paid contributions is only entitled to the number of earnings factor credits required to bring that person up to the qualifying earnings factor.

Subsection (6) provides that earnings factor credits which fall within a week straddling a change in tax years are attributed to the tax year in which the week begins.

Subsection (7) defines terms used in this section and in section 44B. In particular, it has the effect that one earnings factor credit is equal to 1/52 of the qualifying earnings factor (see subsection (2)).

Additional pension: simplification of accrual rates