

*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

SCHEDULES

Schedule 1 - State Pension: Consequential and Related Amendments

Part 1 - Category A and B retirement pensions: single contribution condition

Paragraphs 1 to 3 amend sections 44, 48A and 48B of the Contributions and Benefits Act to ensure that:

- people reaching state pension age before 6th April 2010 would continue to be entitled to the benefits identified in paragraph 5 of Schedule 3 to that Act on satisfaction by the contributor concerned of the two contribution conditions set out in that paragraph; and
- people who reach state pension age on or after 6th April 2010 would be entitled to a Category A pension on satisfaction of the single contribution condition in paragraph 5A of Schedule 3 to that Act (see *section 1(3)*); and
- in the case of Category B pensions, entitlement would be calculated by reference to paragraph 5A of Schedule 3 to that Act for people who are:
 - married to or in a civil partnership with someone who reaches pensionable age on or after 6th April 2010; or
 - the surviving spouse or civil partner of someone who died on or after 6th April 2010 and did not reach state pension age before that date.

Paragraph 4 amends section 60 of that Act to exclude cases where the single condition applies from the scope of that section because of the insertion of new section 60A.

Paragraph 5 inserts a new section 60A into that Act which applies to those cases where only the single contribution condition needs to be satisfied as set out in paragraph 5A of Schedule 3 to that Act.

New section 60A(1) provides that the section applies where a person does not satisfy the single contribution condition in order to be entitled to a Category A or B pension.

Subsection (2) provides a regulation-making power to allow a person who would have been entitled to benefit by virtue of paragraph 5A of Schedule 3 to that Act but for the fact that the contributor has not acquired the full 30 qualifying years nevertheless to be entitled to a prescribed proportion of a full basic state pension for each qualifying year the contributor has built up. The calculation for determining the pro-rata amount of basic state pension entitlement in these cases will be set out in regulations. This means that the 25% de minimis rule (see regulation 6(1) of the [Social Security \(Widow's Benefit and Retirement Pensions\) Regulations \(Northern Ireland\) 1979 \(S.R.1979 No. 243\)](#)), which applies to benefits calculated under paragraph 5 of Schedule 3 to that Act will not apply to the benefits to which this section applies.

Subsection (5) would allow the widow, widower or surviving civil partner of an employed earner who dies on or after 6th April 2010 as a result of an industrial injury or a prescribed disease or injury to inherit a Category B pension, even if the contribution condition set out at paragraph 5A of Schedule 3 to that Act is not satisfied by the deceased employed earner.

Subsection (6) provides that the reference to the single contribution condition in subsections (1) to (3) includes a reference to that condition as modified by regulations under paragraph 5A(4) of Schedule 3 to that Act (i.e. regulations modifying the condition for the purposes of persons who were insured under the National Insurance Act (Northern Ireland) 1948 or the National Insurance Act (Northern Ireland) 1966).

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

Paragraph 6 omits section 54(3) of the Contributions and Benefits Act which currently prevents a spouse or civil partner from electing to cancel their Category A pension where this is already in payment without the consent of the other party to the marriage or civil partnership and *paragraph 8* omits paragraph 8(3) of Schedule 5 to that Act. These provisions become redundant by virtue of the amendments made to section 48A to that Act by *section 2*.

Paragraph 7 amends section 55(3) 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 their Category A pension.

Part 3 - Contributions credits for relevant parents and carers

Paragraph 9 inserts new subsection (5A) into section 22 of the Contributions and Benefits Act to make reference to the new arrangements in section 23A (see *section 3(1)*) which provide for the crediting of Class 3 contributions.

Paragraph 10 amends section 172 of that Act to provide that the first regulations made under section 23A(3)(c) will be subject to the confirmatory resolution procedure in the Assembly.

Paragraph 11 makes a consequential amendment to Part 1 of Schedule 1 to the Welfare Reform Act (Northern Ireland) 2007 so that the definition of “benefit” extends to contributions credits for relevant carers under section 23A of the Contributions and Benefits Act.

Part 4 - Category A and Category C retirement pensions: abolition of adult dependency increases

Paragraphs 12 to 16 remove references to adult dependency increases in sections 30B(3), 78(4), 88, 89(1) and (1A) and 114(4) of the Contributions and Benefits Act which are redundant following the abolition of those increases.

Paragraph 17 removes the redundant references to section 83(2) and (3) in section 145(3) of that Act which deals with circumstances in which a person is treated as being entitled to an adult dependency increase for the purposes of establishing entitlement to a Christmas bonus.

Paragraph 18 amends paragraphs 5 and 6 of Part 4 of Schedule 4 to that Act to remove redundant references to the rates at which adult dependency increases of Category A and C pensions are payable.

Part 5 - Up-rating of basic pension etc. and standard minimum guarantee by reference to earnings

Part 5 amends the Contributions and Benefits Act and the Administration Act consequential on the insertion of new section 132A into the Administration Act (see *section 5*).

Part 6 - Deemed earnings factors for purposes of additional pension

Part 6 contains consequential amendments relating to deemed earnings factors to ensure that the current provisions set out in section 22 of the Contributions and Benefits Act do not affect the new provisions inserted by *section 7*; that the current deemed earnings factors provisions in section 44A(1) to (4) apply only to tax years prior to 2010-11; and that the labour market attachment test will not apply to those on long-term incapacity benefit reaching state pension age on or after 6th April 2010.

Part 7 - Additional pension: simplified accrual rates

Paragraph 32 makes consequential amendments to section 172 of the Contributions and Benefits Act so that any order setting the upper accrual point will be subject to the confirmatory resolution procedure in the Assembly, and an order designating the flat rate introduction year will not be subject to any Assembly procedure (this is also the case for normal commencement orders).

Paragraphs 33 to 36 make consequential amendments to the Pension Schemes Act in connection with contracting-out arrangements for defined benefit pension schemes to cater for the introduction of the upper accrual point.

Part 8 - Increase in pensionable age for men and women

Paragraphs 37 to 40 amend the Contributions and Benefits Act consequential on the increase in pensionable age for men and women. The amendments take effect from 6th April 2024 (see *section 11(3)*).

Paragraph 37 will allow the upper age limit for widow's pension, which is currently 65, to align with rising state pension age. Widow's pension is only payable to women who were widowed before 9th April 2001, and was replaced by bereavement benefit for men and women bereaved after that date.

Paragraphs 38 and 39 relate to, respectively, the minimum age for entitlement to attendance allowance and the upper age limit for claiming disability living allowance (both 65). The amendments will align the present age thresholds with rising state pension age.

Paragraph 40 relates to the qualifying conditions for the Christmas bonus. Where entitlement to the payment is by virtue of entitlement to a war disablement pension, the person is additionally required to have reached the age of 65. The amendment will align the qualifying age with rising state pension age in these cases.

Paragraph 41, which amends the *State Pension Credit Act (Northern Ireland) 2002 (c. 14)*, aligns the qualifying age for entitlement to the savings credit element (currently 65) with rising state pension age.