



2008 CHAPTER 1

PART 1

STATE PENSION

Additional pension: deemed earnings factors

Deemed earnings factors for purposes of additional pension

7.—(1) After section 44A of the Contributions and Benefits Act insert—

“44B Deemed earnings factors: 2010–11 onwards

- (1) This section applies to 2010–11 and subsequent tax years.
- (2) For the purposes of section 44(6)(za) above, if any of Conditions A to C in subsections (3) to (5) below is satisfied for a relevant year to which this section applies, a pensioner is deemed to have an earnings factor for that year which—
 - (a) is derived from so much of his earnings as did not exceed the applicable limit and on which primary Class 1 contributions were paid; and
 - (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.
- (3) Condition A is that the pensioner would, apart from this section, have an earnings factor for the year—
 - (a) equal to or greater than the qualifying earnings factor (“the QEF”) for the year, but

- (b) less than the low earnings threshold for the year.
- (4) Condition B is that the pensioner—
 - (a) would, apart from this section and section 44C below, have an earnings factor for the year less than the QEF for the year, but
 - (b) is entitled to an aggregate amount of earnings factor credits for that year under section 44C below equal to the difference between the QEF for the year and the earnings factor mentioned in paragraph (a) above.
- (5) Condition C is that the pensioner is entitled to 52 earnings factor credits for that year under section 44C below.
- (6) This section has effect in relation to the flat rate introduction year and any subsequent tax year as if—
 - (a) subsection (2)(b) above referred to an aggregate of earnings factors greater than the QEF, but less than the low earnings threshold, for the year (rather than to one equal to that threshold); and
 - (b) Condition A in subsection (3) above (and the reference to it in subsection (2) above) were omitted.
- (7) In this section—
 - (a) “the applicable limit” has the same meaning as in section 44 above;
 - (b) “the low earnings threshold” means the low earnings threshold for the year concerned as specified in section 44A above; and
 - (c) in subsections (3) and (4) above, any reference to the pensioner’s earnings factor for a relevant year is to be construed in accordance with section 44(6)(za) above.

44C Earnings factor credits

(1) This section applies, for the purposes of Conditions B and C in section 44B(4) and (5) above, to 2010–11 and subsequent tax years.

(2) In respect of each week—

- (a) which falls in a relevant year to which this section applies, and
- (b) in respect of which a pensioner is eligible for earnings factor enhancement,

the pensioner is entitled to an earnings factor credit equal to 1/52 of the QEF for that year.

This is subject to subsection (5) below.

(3) A pensioner is eligible for earnings factor enhancement in respect of a week if one or more of the following apply—

- (a) he was a relevant carer in respect of that week for the purposes of section 23A above (see section 23A(3));
 - (b) carer's allowance was payable to him for any part of that week, or would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
 - (c) severe disablement allowance was payable to him for any part of that week;
 - (d) long-term incapacity benefit was payable to him for any part of that week or would have been so payable but for the fact that—
 - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3 to this Act, or
 - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme;
 - (e) he satisfies such other conditions as may be prescribed.
- (4) In subsection (3)(d)(ii) above “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.
- (5) For the purposes of Condition B in section 44B(4) above a person is not entitled to an aggregate amount of earnings factor credits in respect of a year that is greater than the difference referred to in that Condition.
- (6) For the purposes of this section a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.
- (7) In section 44B above and this section—
- (a) “the QEF” means the qualifying earnings factor, and
 - (b) any reference to a person being entitled to an earnings factor credit of a particular amount (or to an aggregate amount of earnings factor credits) for a year is a reference to the person being treated as having for that year an earnings factor (within the meaning of section 44(6)(za) above) of the amount in question by virtue of subsection (2) above.”.
- (2) Part 6 of Schedule 1 contains consequential and related amendments.